

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22424 of 2024

Arising Out of PS. Case No.-415 Year-2023 Thana- LALGANJ District- Vaishali

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1. Niraj Sah @ Niraj Kumar Son of Bijuli Sah Resident of Village- Belka, P.S. and District- Vaishali
 2. Munna Kumar Son of Polis Sahni @ Pulish Sahni Resident of Village- Jafrabad, P.S. - Lalganj, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bela Singh

For the Opposite Party/s : Mr.Sanjay Kumar Sharma

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 04-04-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Lalganj P.S. Case No. 415 of 2023 dated 30.11.2023 for the offences punishable under Sections 420, 467, 468 of the Indian Penal Code u/s 30(a), 34, 36 of the Bihar Prohibition and Excise Act.

3. As per prosecution case, 60 litres of illicit foreign liquor, 1.5 litre liquor having no wrapper, 100 pieces of bottle caps were recovered near Jafrabad small canal. Further, 50 empty bottles of 375 ml., 15 wrappers and 50 piece bottle caps were recovered from the house of co-accused Prince Kumar and



50 empty bottles of 375 ml. 20 wrappers and 50 piece bottle caps were recovered from the house of co-accused Upendra Rai.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioner no. 1 has one criminal antecedent whereas the petitioner no. 2 has no criminal antecedent as stated in para 3 of the bail petition. Local persons disclosed the name of the petitioners. Nothing has been recovered from the conscious possession of the petitioners, hence no case is made out against the petitioners. Learned counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of ***Ram Vinay Yadav vs. State of Bihar reported in 2019 (2) PLJR 1089***. The Full Bench in the case of ***Ram Vinay Yadav (supra)*** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76(2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

5. Learned APP for the State has vehemently opposed the prayer for anticipatory bail of the petitioners by submitting that the bar of Section 76(2) of the Act applies in this case.

6. Considering the aforesaid facts and circumstances



of the case as well as the nature of allegation against the petitioners, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty Thousand) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Vaishali at Hajipur in connection with Lalganj P.S. Case No. 415 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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