

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13537 of 2024

Arising Out of PS. Case No.-961 Year-2023 Thana- TURKAULIYA District- East
Champaran

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1. Krishna Paswan Son of Shambhu Paswan R/o Village- Turkauliya Chowk,
P.S.- Turkauliya, District- East Champaran
 2. Khedu Paswan Son of Shambhu Paswan R/o Village- Turkauliya Chowk,
P.S.- Turkauliya, District- East Champaran
 3. Ramnath Paswan Son of Bhagelu Paswan R/o Village- Turkauliya Chowk,
P.S.- Turkauliya, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Rashmi Jha, Adv.
Mr. Hemant Ray, Adv.
For the Opposite Party/s : Mr. Braj Kishore Pd. APP.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 05-03-2024 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a
case in connection with Turkauliya P.S. Case No. 961 of 2023
dated 10.09.2023 for the offences punishable u/s 272, 273/34 of
the IPC and u/s 30(a), 41(i) of the Bihar Prohibition and Excise
Act.

3. As per the prosecution case, total 20 liters of illicit
country made liquor was recovered from the bamboo orchard.

4. Learned counsel for the petitioners has submitted



that the petitioners are innocent and have falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioners. The recovery was made from an open place that is accessible to anyone. The name of the petitioners has transpired only on the basis of secret information. The petitioners have no concern with the alleged recovery. The petitioners have clean antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that 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 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 A.P.P. 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 material available on record, 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) with two sureties of the like amount each to the satisfaction of the learned court concerned, Motihari , East Champaran in connection with Turkauliya P.S. Case No. 961 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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