

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15931 of 2024

Arising Out of PS. Case No.-271 Year-2023 Thana- LAKHNAUR District- Madhubani

1. Ramdulari Devi W/o Shivgodhan Singh R/o Vill - Daiyakharwar Gangapur, P.S. - Lakhnaur, Dist. - Madhubani
2. Dinesh Singh S/o Jagat Singh R/o Vill - Daiyakharwar Gangapur, P.S. - Lakhnaur, Dist. - Madhubani
3. Ravi Prakash Singh @ Ravi Singh @ Ravi Kumar S/o Digambar Singh R/o Vill - Daiyakharwar Gangapur, P.S. - Lakhnaur, Dist. - Madhubani
4. Rakesh Singh S/o Gauri Shankar Singh R/o Vill - Daiyakharwar Gangapur, P.S. - Lakhnaur, Dist. - Madhubani
5. Bambam Kumar S/o Shivshankar Singh R/o Vill - Daiyakharwar Gangapur, P.S. - Lakhnaur, Dist. - Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sumit Kumar Jha, Adv.
For the Opposite Party/s : Mr.Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 12-03-2024 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 Lakhnaur P.S. Case No. 271 of 2023, corresponding to G.R. No. 911 of 2023 dated 19.12.2023 registered for the offence/s punishable u/ss 272, 273, 147, 148, 149, 189, 224, 225, 323, 324, 332, 333, 353, 427, 504 and 506 of the Indian Penal Code and section 30(a) of the Bihar Prohibition and Excise Act.



3. As per the prosecution case, total 108 litres of illicit Nepali liquor was recovered under the straw and two persons were apprehended. Thereafter, the petitioners and the co-accused persons, 30-35 in numbers came there and caused hindrance in the discharge of the official duty of the police personnel and got the apprehended accused persons, namely Ram Singh and Kanhaiya Kumar released from the custody of police. It is further alleged that all the accused persons also assaulted the police personnel with lathi, danda, khanti, Tengari, iron rod and fists causing injuries to them.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. There is general and omnibus allegation against the petitioners. The said recovery was made from an open place that is accessible to anyone. The petitioners have no concern with the alleged recovery. The petitioners have no criminal antecedent as stated at para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. 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 petitioner 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 the record and the allegation being general and omnibus, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on 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 learned court concerned, Jhanjharpur, Madhubani in connection with Lakhnaur P.S. Case No. 271 of 2023, corresponding to G.R. No. 911 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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