

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21635 of 2024

Arising Out of PS. Case No.-592 Year-2019 Thana- Excise P.S. District- Gaya

1. Surendra Yadav S/o- Late Durga Yadav Village- Dalli Bigha Ps- Bela Dist- Gaya
2. Pramod Yadav S/o- Late Karu Yadav Village- Dalli Bigha Ps- Bela Dist- Gaya
3. Gunna Yadav @ Gunga Yadav S/o- Ranjan Yadav Village- Dalli Bigha Ps- Bela Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Durgesh Nandan
For the Opposite Party/s : Mr.Sucheta Yadav

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 02-04-2024 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Excise P.S. Case No. 592 of 2019, dated 03.12.2023 for the offences punishable under Section 30(c) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 1200 kg. Jawa mahua was recovered near the Pan.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioner no. 3 has no criminal



antecedent whereas petitioner no. 1 has three criminal antecedents and petitioner no. 2 has two criminal antecedents in which all cases they are on bail stated in para 3 of the bail petition. Learned counsel further submitted that the recovery is made from the open place. 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, Gaya in connection with Excise P.S. Case No. 592 of 2019, 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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