

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17084 of 2024

Arising Out of PS. Case No.-615 Year-2023 Thana- MASHRAK District- Saran

SUNIL SINGH @ SUNIL KUMAR SINGH S/O LATE RAMBILAS SINGH
R/O GRAM GANGOLI, P.S- MASHRAKH, DISTT.- SARAN, BIHAR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 19004 of 2024

Arising Out of PS. Case No.-615 Year-2023 Thana- MASHRAK District- Saran

BHOLA NUT S/o Santlal Nat R/o Village-Sisai, P.S.-Mashrak, District-Saran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 17084 of 2024)
For the Petitioner/s : Mr.Mrityunjay Kumar
For the Opposite Party/s : Mr.Pronoti Singh
(In CRIMINAL MISCELLANEOUS No. 19004 of 2024)
For the Petitioner/s : Mr.Wasi Mohammad
For the Opposite Party/s : Mr.Shantanu Kumar

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 14-03-2024 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 Mashrakh P.S. Case No. 615 of 2023 dated 18.12.2023 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1225 litres of illicit



spirit was recovered from the field of the co-accused, Ranjay Kumar Manjhi.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The recovery was made from an open place that is accessible to anyone. The petitioners have no concern with the alleged recovery. The name of the petitioners has transpired on mere suspicion. The petitioner, namely, Sunil Singh in Cr. Misc. No. 17084 of 2024 has no criminal antecedent and the petitioner, namely, Bhola Nut in Cr. Misc. No. 19004 of 2024 has nine other criminal antecedents 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 the 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 the 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) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Saran at Chapra in connection with Mashrakh P.S. Case No. 615 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition/s:-

(i). The petitioner, namely, Bhola Nut in Cr. Misc. No. 19004 of 2024 is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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