

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23474 of 2024

Arising Out of PS. Case No.-1402 Year-2023 Thana- DANAPUR District- Patna

1. Rocky Kumar Son of Sri Manohar Rai @ Manohari Rai @ Manohar Ray Resident of Village - Saguna Nadi Par, P.S.- Danapur, District - Patna, Bihar.
2. Amit Rai @ Rakha Son of Pheku Rai Resident of Village - Saguna Nadi Par, P.S.- Danapur, District - Patna, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Kant Kumar

For the Opposite Party/s : Mr.Rajendra Prasad Nat

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 08-04-2024 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 Danapur P.S. Case No. 1402/2023 dated 30.10.2023 registered for the offences punishable u/ss 147, 149, 342, 323, 332 and 353 of the I.P.C and Sections 30(a) and 45 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 600ml of illicit foreign liquor, two plastic glass, water bottle and a cigarette were recovered from the possession of the co-accused. Further, when police was preparing seizure list, one Govind Kumar along with 10-15 persons came and forcibly took away Dilip



Kumar and Navin from the custody of the police but Govind Kumar was apprehended by police, who disclosed that these petitioners along with some other persons were involved in getting Dilip Kumar and Navin released of the custody.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioners have two criminal antecedents as stated in para 3 of the bail petition. 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 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 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 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, Danapur, Patna in connection with Danapur P.S. Case No. 1402/2023 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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