

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18343 of 2024

Arising Out of PS. Case No.-13 Year-2024 Thana- BARAULI District- Gopalganj

1. Sonu Tiwari @ Sonu Kumar Tiwari @ Sonu Kumar S/O- Nagendra Tiwari
R/O- Village- Sarfara, P.S.- Barauli, Dist.- Gopalganj
2. Manish Kumar Tiwari @ Dhanu Tiwari S/O- Bhupendra Tiwari R/O-
Village- Sarfara, P.S.- Barauli, Dist.- Gopalganj

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR, PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sailendra Kumar Dwivedi, Adv.

For the Opposite Party/s : Mr.Satya Nand Shukla, APP

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

ORAL ORDER

2 19-03-2024 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 Barauli P.S. Case No. 13 of 2024 dated
09.01.2024 registered for the offences punishable u/s 30(a) of the
Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 86.4 litres of
illicit foreign liquor was recovered from the Baboo Orchard.

4. Learned counsel for the petitioners has submitted
that the petitioners are innocent and have falsely been
implicated in this case. The petitioners have no criminal
antecedent as stated in para 3 of the bail petition. The name of



the petitioners has sprung up in the confessional statement of the co-accused, Bhupendra Tiwari. The petitioners have no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. Nothing has been recovered from the conscious possession of the petitioners, hence no case is made out. 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 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 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, Gopalganj in connection with Barauli P.S. Case No. 13 of 2024, 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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