

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20983 of 2024

Arising Out of PS. Case No.-22 Year-2024 Thana- BHELDI District- Saran

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1. Dharpal Ray @ Bhikari Ray @ Rampal Kumar S/o Ganesh Ray R/o Vill - Hakma, P.S. - Bheldi, Dist. - Saran, State - Bihar
 2. Surendra Rai @ Surendra Ray S/o Ramnath Ray R/o Vill - Hakma, P.S. - Bheldi, Dist. - Saran, State - Bihar

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raushan Raj, Adv.

For the Opposite Party/s : Mr.Arun Kumar Singh, APP

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. Learned counsel for the petitioners seeks permission to withdraw the present application for the petitioner no. 1, namely, Dharpal Ray @ Bhikari Ray @ Rampal Kumar.

3. Permission is accorded.

4. Accordingly, the present application for the petitioner no. 1, namely, Dharpal Ray @ Bhikari Ray @ Rampal Kumar is dismissed as withdrawn.

5. The petitioner no. 2 is apprehending his/her arrest in a case in connection with Bheldi P.S. Case No. 22 of 2024 dated 18.01.2024 for the offence/s punishable u/s 30(a) of the



Bihar Prohibition and Excise Act.

6. As per the prosecution case, total 17.640 litres of illicit foreign liquor was recovered behind the house of the petitioner no. 1 and 9 litres of illicit foreign liquor was recovered behind the shop of the petitioner no. 2.

7. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The recovery was made from an open place that is accessible to anyone. Local Chowkidar disclosed the name of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in 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.

8. 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.

9. Considering the aforesaid facts and circumstances of the case as well as the material available on the record, let the above named petitioner, in the event of his/her 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) with two sureties of the like amount each to the satisfaction of the learned court concerned, Saran at Chapra in connection with Bheldi P.S. Case No. 22 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

10. The application stands allowed.

(Chandra Prakash Singh, J)

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