

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22369 of 2024

Arising Out of PS. Case No.-17 Year-2024 Thana- AMBA District- Aurangabad

1. Mukesh Kumar @ Mukesh Paswan S/o Brihaspat Paswan @ Bihas Paswan R/o vill - Manjhauli Bigha, P.S. - Amba, Distt. - Aurangabd
2. Jitendra Chaudhary S/o Satan Chaudhary @ Santan Chaudhary R/o vill - Bhatkur Tola, Daroga Bigha, P.S. - Amba, Distt. - Aurangabad, Pin 824202

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramendra Kumar Singh

For the Opposite Party/s : Mr. Umanath Mishra, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

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

2. The petitioners are apprehending their arrest in connection with Amba P.S. Case No. 17 of 2024, dated 30.01.2024 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 50 litres of illicit mahua liquor was recovered from a bag.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioner no. 1 has no criminal antecedent whereas petitioner no. 2 has three criminal



antecedents in which he is on bail as stated in para 3 of the bail petition. Local villagers disclosed the name of the petitioners. 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, Aurangabad in connection with Amba P.S. Case No. 17 of 2024, 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)

Ranjeet/-

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