

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19569 of 2024

Arising Out of PS. Case No.-2 Year-2024 Thana- Excise P.S. District- Samastipur

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1. RAHUL KUMAR S/O- SARVESH SAH R/O- VILLAGE- CHAKLALSAHI, P.S.- TAJPUR (HALAI O.P.), DIST.- SAMASTIPUR.
 2. SARVESH SAH S/O- NANDU SAH R/O- VILLAGE- CHAKLALSAHI, P.S.- TAJPUR (HALAI O.P.), DIST.- SAMASTIPUR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR, PATNA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Surya Roy

For the Opposite Party/s : Mr.Parmanand Prasad

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 28-03-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Excise P.S. Case No. 02 of 2024, dated 04.01.2024 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, 3.750 litres of illicit foreign liquor was recovered from a hut behind the restaurant.

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



which in all cases he is on bail stated in para 3 of the bail petition in which he is on bail. The name of the petitioners was disclosed by the apprehended co-accused person. The petitioners are not the owner of the hut. 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, Samastipur in connection with Excise P.S. Case No. 02 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)

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