

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22783 of 2024

Arising Out of PS. Case No.-67 Year-2020 Thana- BANGAWON District- Saharsa

1. Shahid Ali Son of Sardar Ali Resident of Village- Talab Para, Meet Market, P.S.- Baran, District- Baran, Rajasthan
2. Sabir Ali Son of Sardar Ali Resident of Village-d Talab Para, Meet Market, P.S Baran, District- Baran, Rajasthan

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Pandey, Adv.

For the Opposite Party/s : Mr.Rana Randhir Singh, 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 a case in connection with Bangaon P.S. Case No. 67 of 2020 dated 07.09.2020 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 2764.8 litres of illicit foreign liquor was recovered from the Truck.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The petitioner no. 1 is



the owner of the said vehicle. The said vehicle was not being driven by the petitioners at the time of the alleged occurrence. The petitioners have no concern with the alleged recovery. The petitioners have no criminal antecedents as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of the 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.

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



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,
Saharsa in connection with Bangaon P.S. Case No. 67 of 2020,
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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