

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22779 of 2024

Arising Out of PS. Case No.-49 Year-2020 Thana- SARAIYA District- Muzaffarpur

1. Anish Kumar S/o Ranjeet Sharma R/o Village- Baghnagari, P.S.- Saraiya, District- Muzaffarpur
2. Keshav Kumar @ Keshav Kishor S/o Pankaj Kumar R/o Village- Baghnagari, P.S.- Saraiya, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manish Chandra Gandhi, Adv.

For the Opposite Party/s : Mr.Bishweshwar Ram, 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 Saraiya P.S. Case No. 49 of 2020 dated 22.01.2020 for the offence/s punishable u/ss sections 272 and 273/34 and 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 445.23 litres of illicit foreign liquor was recovered from the Basbari of the co-accused Raj Kishore Thakur.

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 recovery was made from an open place that is accessible to anyone. The petitioners have no concern with the alleged recovery. Local people disclosed the name of the petitioners. The petitioners have one more criminal antecedent 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, Muzaffarpur in connection with Saraiya P.S. Case No. 49 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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