

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22773 of 2024

Arising Out of PS. Case No.-708 Year-2023 Thana- SHAHPUR PATORI District- Samastipur

1. DEEPAK SAH @ DEEPAK KUMAR SON OF SHIVJEE SAH RESIDENT OF VILLAGE - HETANPUR, POLICE STATION - PATORI, DISTRICT - SAMASTIPUR
2. DEENA RAI @ DINANATH RAI SON OF SIYALAL RAI RESIDENT OF VILLAGE - HETANPUR, POLICE STATION - PATORI, DISTRICT - SAMASTIPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Singh, Adv.

For the Opposite Party/s : Mr.Damodar Prasad Tiwary, 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 Patory P.S. Case No. 708 of 2023 dated 14.11.2023 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 10 litres of illicit country made liquor was recovered from the asbestos house of the co-accused.

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 petitioners have no concern with the alleged recovery. The apprehended co-accused disclosed the name of the petitioners. 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, Samastipur in connection with Patory P.S. Case No. 708 of 2023, 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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