

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21634 of 2024

Arising Out of PS. Case No.-545 Year-2023 Thana- BASANTPUR District- Siwan

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1. Sonu Kumar Mahto S/o Late Suresh Mahto R/o Village Khoripakar, P.S. Basantpur, District Siwan
 2. Rani Devi W/o Sonu Kumar Mahto R/o Village Khoripakar, P.S. Basantpur, District Siwan

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Javed Aslam

For the Opposite Party/s : Mr.Ramchandra Sahni

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 02-04-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Basantpur P.S. Case No. 545 of 2023, dated 17.10.2023 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 20 litres of illicit country made liquor and 3.375 litres of illicit English liquor was recovered from the Bathan kept in a plastic 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 is the owner of the



said cattle-shed which is situated in a open place. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. Local Chowkidar 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, Siwan in connection with Basantpur P.S. Case No. 545 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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