

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28932 of 2024

Arising Out of PS. Case No.-294 Year-2023 Thana- RAGHOPUR District- Vaishali

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1. Kanchan Rai @ Kanchan Kumar Son of Hoti Rai Resident of Village-Sukumarpur, Police Station- Rustampur O.P., District- Vaishali
 2. Vishal Rai Son of Bhullu Rai @ Ravindra Rai Resident of Village-Sukumarpur, Police Station- Rustampur O.P., District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md Soban Asghar

For the Opposite Party/s : Mr. Md. Nazir Ansari

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 20-04-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Raghopur (Rustampur O.P.) P.S. Case No. 294 of 2023 dated 04.12.2023 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 650 litres of illicit country made chulai liquor and two bhatti were recovered from the bank of river.

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 has one criminal



antecedent in which he is on bail whereas the petitioner no. 2 has no criminal antecedent as stated in para 3 of the bail petition. The alleged recovery was made from the open place. The name of the petitioners have transpired in this case on the basis of suspicion. 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, Hajipur (Vaishali) in connection with Raghopur (Rustampur O.P.) P.S. Case No. 294 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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