

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25236 of 2024

Arising Out of PS. Case No.-30 Year-2024 Thana- SUGAULI District- East Champaran

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1. ASHOK KUMAR SON OF LATE BISHWANATH CHAUDHARY
RESIDENT OF VILLAGE - SUGAULI, MAHAVIR MANDIR, WARD
NO.9, P.S. - SUGAULI, DISTRICT - EAST CHAMPARAN
 2. SANTOSH KUMAR SON OF Late BISHWANATH CHAUDHARY
RESIDENT OF VILLAGE - SUGAULI, MAHAVIR MANDIR, WARD
NO.9, P.S. - SUGAULI, DISTRICT - EAST CHAMPARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhurendra Kumar
For the Opposite Party/s : Mrs. Sharda Kumari, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 15-04-2024 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. The petitioners have preferred this application for grant of anticipatory bail in connection with Sugauli P.S. Case No. 30 of 2024 dated 18.01.2024 for the offences punishable under Sections 272/273 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 5.560 litres of illicit foreign liquor and 37.500 litres of illicit Nepali Kasturi liquor was recovered from the field behind the house of the petitioners.

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 got 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. Learned counsel further submitted that the recovery is made from the open place. Local Chowkidar has disclosed the name of the petitioners due to previous enmity. 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, East Champaran, Motihari in connection with Sugauli P.S. Case No. 30 of 2024, 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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