

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22423 of 2024

Arising Out of PS. Case No.-20 Year-2024 Thana- KISHANPUR District- Supaul

1. Digambar Kamat Son Of Late Bindeshwari Kamat @ Khattar Kamat Resident Of Village - Tulapatti, Ward No.03, P.S. - Kishanpur, District - Supaul
2. Aditya Kumar @ Raja @ Raja Kumar Son Of Digambar Kamat Resident Of Village - Tulapatti, Ward No.03, P.S. - Kishanpur, District - Supaul
3. Anju Devi @ Anju Kumari Wife Of Aditya Kumar @ Raja @ Raja Kumar Resident Of Village - Tulapatti, Ward No.03, P.S. - Kishanpur, District - Supaul
4. Soni Kumari Wife Of Abhijeet Kumar Resident Of Village - Tulapatti, Ward No.03, P.S. - Kishanpur, District - Supaul
5. Neelam Devi Wife Of Digambar Kamat Resident Of Village - Tulapatti, Ward No.03, P.S. - Kishanpur, District - Supaul
6. Abhijeet Kumar Son Of Digambar Kamat Resident Of Village - Tulapatti, Ward No.03, P.S. - Kishanpur, District - Supaul

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amrit Abhijat, Adv.

For the Opposite Party/s : Mr.Nityanand, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 19-03-2024 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 S.T. Excise Case No. 82/2024 arising out of Kishanpur P.S. Case No. 20 of 2024 dated 20.01.2024 registered for the offences punishable u/ss 147, 148, 149, 341, 342, 323, 307, 353, 332, 333, 224, 504, 506 of the Indian Penal Code and u/ss 30(a) and 45 of the Bihar Prohibition and Excise Act.



3. As per the prosecution case, total 7.8 litres of illicit Nepali liquor was recovered from the cowshed of the co-accused, Sikandar Kamat who was apprehended by police. Thereafter, the petitioners and the co-accused persons along with 50-60 unknown miscreants got the apprehended person freed from police custody and started indiscriminate attack on the police party as a result of which all the police personnel sustained serious injuries. It is further alleged that the accused persons also caused hindrance in discharge of official duties of the police personnel.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioners has transpired in this case merely on suspicion. The petitioners have no concern with the alleged recovery rather the recovery was made from the cowshed of the co-accused person, Sikandar Kamat. It is further submitted that the petitioners have no concern with the alleged offence. Nothing has been recovered from the conscious possession of the petitioners, hence no case is made out. Learned counsel has further submitted that the petitioner no. 3, 4 and 5 are ladies. 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 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 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 learned court concerned, Supaul in connection with S.T. Excise Case No. 82/ 2024 arising out of Kishanpur P.S. Case No. 20 of 2024, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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