

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28866 of 2024

Arising Out of PS. Case No.-742 Year-2018 Thana- BARACHATTI District- Gaya

1. Vijay Manjhi @ Bijay Bhuiya son of Mahavir Manjhi @ Mahavir Bhuiya Village- Anjaniya Tand Ps- Barachatti, Dist- Gaya
2. Kamret Vishwakarma @ Ramashray Vishwakarma son of Ramswaroop Vishwakarma Village- Anjaniya Tand Ps- Barachatti, Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sudhir Kumar Sinha

For the Opposite Party/s : Mr.Jagdhar Prasad

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 22-04-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Barachatty P.S Case No. 742 of 2018 dated 24.11.2018 registered for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. Learned counsel for the petitioners seeks permission to withdraw the present application for the petitioner no. 2, namely, Kamret Vishwakarma @ Ramashray Vishwakarma.

4. Permission is accorded.

5. Accordingly, this bail application for the petitioner



no. 2, namely, Kamret Vishwakarma @ Ramashray Vishwakarma is dismissed as withdrawn.

6. As per the prosecution case, total 47 litres of illicit foreign liquor was recovered from the bhatties of the petitioner and the co-accused.

7. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner has transpired in this case only on the basis of suspicion. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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.

8. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by



submitting that the bar of Section 76(2) of the Act applies in this case.

9. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioner, let the above named petitioner, in the event of his 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) with two sureties of the like amount each to the satisfaction of the learned court concerned, Gaya in connection with Barachatty P.S Case No. 742 of 2018 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

10. This application stands allowed.

(Chandra Prakash Singh, J)

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