

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.26100 of 2024**

Arising Out of PS. Case No.-101 Year-2023 Thana- OBRA District- Aurangabad

1. Gautam Paswan Son of Brijlal Paswan Resident of Village- Mahdeva (Mahadevan), P.S.- Obra, District- Aurangabad
2. Jitendra Paswan Son of Devlal Paswan Resident of Village- Mahdeva (Mahadevan), P.S.- Obra, District- Aurangabad
3. Yogendra Paswan @ Jugesh Paswan Son of Jagruk Paswan Resident of Village- Mahdeva (Mahadevan), P.S.- Obra, District- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Rahul Kumar Singh, Adv.  
For the Opposite Party/s : Mr.Rajesh Kumar, APP

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

ORAL ORDER

2      16-04-2024                      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 Obra P.S. Case No. 101 of 2023 dated 01.03.2023 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 175 litres of illicit country made liquor was recovered from the paddy field near the bank of the Sone River.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been



implicated in this case. The petitioner nos. 1 and 2 have no criminal antecedent whereas the petitioner no. 3 has two criminal antecedents as stated in para 3 of the bail petition. The name of the petitioner has transpired in this case only on the basis of secret information. The petitioners have no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. Nothing has been recovered from the conscious possession of the petitioners, 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.

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, Aurangabad in connection with Obra P.S. Case No. 101 of 2023, 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)**

Gautam/-

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