

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29351 of 2024

Arising Out of PS. Case No.-2 Year-2024 Thana- SURYAPURA District- Rohtas

1. Gulla Chaudhary S/O Jumman Chaudhary @ Chhotelal Chaudhary Resident Of Village Balihar Noniyatoli Police Station Surajpura District Rohtas At Sasaram
2. Badri Chaudhary S/O Jumman Chaudhary @ Chhotelal Chaudhary Resident of Village Balihar Noniyatoli Police Station Surajpura District Rohtas At Sasaram
3. Priyanka Kumari W/O Upendra Chaudhary Resident of Village Balihar Noniyatoli Police Station Surajpura District Rohtas At Sasaram
4. Usha Devi W/O Badri Chaudhary Resident of Village Balihar Noniyatoli Police Station Surajpura District Rohtas At Sasaram

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Adv
For the Opposite Party/s : Mr. Rabindra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 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 Surayapura P.S Case No. 02 of 2024 dated 02.01.2024 registered for the offence punishable u/s 147, 341, 323, 307, 353, 332, 504 and 506 of the I.P.C. and Section 37 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, Badri Chaudhary.

4. Permission is accorded.

5. Accordingly, this bail application for the petitioner no. 2, namely, Badri Chaudhary is dismissed as withdrawn.

6. As per the prosecution case, the informant along with the police personnel visited the house of the Saraswati Devi. Meanwhile the petitioners along with the co-accused person started quarreling with the police party. The co-accused Upendra Choudhary started scuffling with the informant with the intention to kill him, while all other persons assaulted him with the lathi and danda. The wife of Upendra Choudhary and Badri Choudhary also assaulted the police constable *Nisha Kumari*. The informant with the help of police force and villagers could only apprehend the co-accused Upendra Choudhary, who was in intoxicate condition.

7. Learned counsel for the petitioner has submitted that the petitioners are innocent and has falsely been implicated in this case. The petitioners have one criminal antecedent as stated in para 3 of the bail petition. The petitioners nos. 3 and 4 are a lady. The name of the petitioners has transpired in this case only on the basis of the statement of villagers. It is further submitted that the alcohol was found in the body of the co-



accused *Upendra Choudhary*. The allegation against the petitioners is general and omnibus in nature. The petitioners were not apprehended from the place of occurrence and no incriminating article has been recovered from the conscious possession of the petitioners and there is no specific allegations against 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.

8. 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.

9. 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 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, Rohtas at Sasaram in connection with Surayapura P.S Case No. 02 of 2024 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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