

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27389 of 2024

Arising Out of PS. Case No.-3 Year-2024 Thana- JANTA BAZAR District- Saran

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1. TUNTUN NUT @ TUNTUN NAT S/O LATE HIRA NUT R/O VILLAGE-SENDUAR, P.S- JANTA BAZAR, DISTT.- SARAN.
 2. JAKIR NUT S/O HASNU NAT R/O VILLAGE- DAYALPUR, P.S- JANTA BAZAR, DISTT.- SARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mili Kumari

For the Opposite Party/s : Mr.Narsingh Tanti

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 18-04-2024 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 Janta Bazar P.S. Case No. 03 of 2024, dated 07.01.2024, for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 15 litres of illicit country made liquor, 480 litres of Paani Pash, two gas stoves, two tasla were recovered from the bush, behind the house of the petitioner no. 2.

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 two criminal antecedents in which he is on bail whereas petitioner no. 2 has no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioners transpired on the basis of secret information. Learned counsel further submitted that the recovery is made from the open place which is accessible to anyone. 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, Saran at Chapra in connection with Janta Bazar P.S. Case No. 03 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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