

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30228 of 2024

Arising Out of PS. Case No.-128 Year-2024 Thana- LAKHISARAI District- Lakhisarai

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1. NIBASH KUMAR SON OF MUKESH YADAV RESIDENT OF VILLAGE - ENGLISH, P.S. - LAKHISARAI, DISTRICT - LAKHISARAI
 2. GOVINDA KUMAR SON OF CHUNCHUN YADAV RESIDENT OF VILLAGE - ENGLISH, P.S. - LAKHISARAI, DISTRICT - LAKHISARAI

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar

For the Opposite Party/s : Mr. Umanath Mishra, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 23-04-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Lakhisarai P.S. Case No. 128 of 2024, dated 13.02.2024 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 8.1 litres of illicit foreign liquor and 7 litres of illicit country made liquor were recovered from the sack thrown by the petitioners.

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 one criminal



antecedent in which he is on bail whereas petitioner no. 2 has no criminal antecedent as stated in para 3 of the bail petition. The alleged recovery is made from the open place which is accessible to anyone. Local villagers disclosed the name of the petitioners due to previous enmity. 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, Lakhisarai in connection with Lakhisarai P.S. Case No. 128 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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