

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30203 of 2024

Arising Out of PS. Case No.-580 Year-2021 Thana- MOTIHARI MUFASIL District- East
Champaran

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1. Ramadaya Mukhiya @ Ramyad Mukhiya Son Of Sorai Mukhiya Resident Of Village - Nasuaha, P.S. - Muffasil Motihari, District - East Champaran
 2. Ruplal Mukhiya Son Of Rambalak Mukhiya Resident Of Village - Nasuaha, P.S. - Muffasil Motihari, District - East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava

For the Opposite Party/s : Mr. Lakshmi Kant Sharma

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 Muffasil P.S. Case No. 580 of 2021, dated 01.11.2021, for the offences punishable under Sections 30(a), 32, 41(1) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 90 litres of illicit country made liquor was recovered near bank of river situated in village Hasuaha.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioners have no criminal



antecedent as stated in para 3 of the bail petition. Local villagers disclosed the name of the petitioners due to previous enmity. The alleged recovery is made from the open place which is accessible to anyone. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. 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 petitioner 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 petitioner, let the above named petitioner, 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, East Champaran at Motihari in connection with Muffasil P.S. Case No. 580 of 2021, 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)

Ranjeet/-

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