

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31360 of 2024

Arising Out of PS. Case No.-332 Year-2023 Thana- LALGANJ District- Vaishali

1. Arbind Rai Son of Jawahar Rai Resident of Village - Salempur, P.S.-
Lalganj, District - Vaishali.
2. Sudhir Sahni Son of Rajendra Sahni Resident of Village - Salempur, P.S.-
Lalganj, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shyameshwar Kumar Singh, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar, APP

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

ORAL ORDER

2 25-04-2024 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 Lalganj P.S. Case No. 332 of 2023 dated
23.09.2023 registered for the offences punishable u/s 30(a) of the
Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 60 litres of illicit
country made liquor, 150 litres of raw jawa mahua and 4 bhattis
were recovered from Salempur, Diyara area.

4. Learned counsel for the petitioners has submitted
that the petitioners are innocent and have falsely been
implicated in this case. The petitioners have one criminal



antecedent as stated in para 3 of the bail petition. The name of the petitioner was disclosed by local people. 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, Vaishali at Hajipur in connection with Lalganj P.S. Case No. 332 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)

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