

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31195 of 2024

Arising Out of PS. Case No.-28 Year-2024 Thana- LAKHNAUR District- Madhubani

1. Ugan Paswan @ Ugan Kumar Paswan Son of RamKishun Paswan @ Ram Krishna Paswan Resident of Village- Behat, PS - Lakhnaur RSOP, Distt - Madhubani
2. Shambhu Paswan @ Shambhu Kumar Son of Ramkishun Paswan @ Ram Krishana Paswan Resident of Village-Behat, PS - Lakhnaur RSOP, Distt - Madhubani

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Bharti
For the Opposite Party/s : Mr.Shaheen Begum

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 connection with Lakhnaur P.S. Case No. 28 of 2024, dated 12.02.2024 for the offences punishable under Sections 272, 273 and 34 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 11.160 litres of illicit foreign liquor kept in a sack was recovered from a bamboo bush.

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 one criminal antecedent in which he is on bail as stated in para 3 of the bail petition. The alleged recovery is made from the open place which is accessible to anyone. Local Chowkidar 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, Jhanjharpur, District- Madhubani in connection with Lakhnaur P.S. Case No. 28 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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