

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31430 of 2024

Arising Out of PS. Case No.-676 Year-2021 Thana- MAJHAULIA District- West Champaran

1. Yoni Devi @Joniha Devi, aged about 63 years, Female, W/O- Late Mukhlal Ram R/O- Village -Ward No 07, Jaukatiya Chamara Toli, Jawkatia, P.S- Majhauria, District- West Champaran.
2. Sona Devi, aged about 27 years, Female, W/O- Arvind Ram R/O- Village -Ward No 07, Jaukatiya Chamara Toli, Jawkatia, P.S- Majhauria, District- West Champaran.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioners : Mr. Umesh Kumar Gupta, Advocate
For the Opposite Party : Mrs. Asha Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 19-07-2024 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 Majhauria P.S. Case No. 676 of 2021 dated 06.12.2021 registered for the offences punishable u/s 30(a), (d) and 45 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 5 litres of illicit country made chulai liquor was recovered from the hut behind the house of the petitioners and 1.6 litres of illicit country made chulai liquor was recovered from the bag of the co-accused, Gopi Manjhi.



5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioners was transpired by local *Mahal Chowkidar*. Nothing has been recovered from the conscious possession of the petitioners, hence no case is made out. The co-accused persons have already been granted anticipatory bail by this Court vide order dated 15.01.2024 passed in Cr. Misc. No. 82374 of 2023. 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.

6. 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 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 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, Bettiah, West Champaran in connection with Majhauriya P.S. Case No. 676 of 2021, 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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