

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39066 of 2024

Arising Out of PS. Case No.-357 Year-2023 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Khagaria

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1. Permanand Sharma Son of Late Basdev Sharma Resident of Village - Bishanpur, P.S. - Muffasil, District- Khagaria.
 2. Bikram Kumar Son of Permanand Sharma Resident of Village - Bishanpur, P.S. - Muffasil, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nishant Kumar Sinha

For the Opposite Party/s : Mr.Vinod Shanker Modi

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 23-08-2024 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 Khagaria Muffasil P.S. Case No. 357 of 2023 dated 05.04.2023 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 10 litres of illicit country made liquor was recovered from the *basa* of the co-accused Uday Sharma.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The petitioners have no concern with the alleged



recovery. The name of the petitioners has transpired on mere suspicion. Similarly situated co-accused person has already been granted anticipatory bail by this court vide order dated 11.12.2023 passed in Cr. Misc. No. 51014 of 2023. The petitioners have no criminal antecedents as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of the Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar 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 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, Khagaria in connection with Khagaria



Muffasil P.S. Case No. 357 of 2023, 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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