

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36409 of 2024

Arising Out of PS. Case No.-971 Year-2019 Thana- Excise P.S. District- East Champaran

1. AKAH KUMAR @ AKASH KUMAR SON OF NARAYAN THAKUR VILLAGE- SHANKAR SARAIYA, PS- TURKAULIYA, DIST- EAST CHAMPARAN
2. AMIT KUMAR SON OF NARAYAN THAKUR VILLAGE- SHANKAR SARAIYA, PS- TURKAULIYA, DIST- EAST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Singh, Adv.
For the Opposite Party/s : Mr.Nand Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 26-07-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners have preferred this application for grant of anticipatory bail in connection with Excise P.S. Case No. 971 of 2019, dated 08.11.2019 (Trial No. 5890 of 2022) for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 32 litres of spirit and 28 litres of illicit country made liquor was recovered near the straw made hut.

4. Learned counsel for the petitioners has submitted that the petitioner 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. The name of the petitioners transpired in this case on the basis of secret information. The petitioners are not the owner of the said hut. Nothing has been recovered from the conscious possession of the petitioners, hence no case is made out against the petitioners. The co-accused persons have already been granted anticipatory bail by this court vide order dated 16.04.2024 passed in Cr. Misc. No. 25957 of 2024. 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, East Champaran at Motihari in connection with Excise P.S. Case No. 971 of 2019, 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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