

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38053 of 2024

Arising Out of PS. Case No.-1218 Year-2023 Thana- SONEPUR District- Saran

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1. Sanjay Rai S/O KUJBIHARI RAI @ KUNJ BIHARI RAY R/O VILLAGE- Sabalpur CHAHARAM, P.S.- SONEPUR, DIST- SARAN
 2. AMARJEET RAI @ AMRIT KUMAR RAI S/O KUNJBIHARI RAI @ KUNJ BIHARI RAY R/O VILLAGE- Sabalpur CHAHARAM, P.S.- SONEPUR, DIST- SARAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Mishra, Adv.
For the Opposite Party/s : Mr.Kanhiya Kishor, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 09-08-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Sonapur P.S. Case No. 1218 of 2023 dated 25.12.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 2256 litres of illicit beer was recovered from the boat.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioners are the owner of the said boat but they have no concern with the alleged recovery. The



petitioners have one criminal antecedent as stated in para 3 of the bail petition. The petitioners are not apprehended at the occurrence place. No incriminating article has been recovered from the conscious possession of the petitioners, hence no case is made out. The co-accused person has already been granted anticipatory bail by this court vide order dated 19.07.2024 passed in Cr. Misc. No. 30978 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 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 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, Saran at Chapra, in connection with Sonapur P.S. Case No. 1218 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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