

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41010 of 2024

Arising Out of PS. Case No.-57 Year-2023 Thana- NAYAGAON District- Begusarai

1. Aman Kumar @ Aman Paswan Son of Pappu Kumar @ Pappu Paswan R/O Village - Mahmadpur Gautam, P.S.- Nayagaon, District - Begusarai.
2. Deepak Kumar Son of Chamru Tanti R/O Village - Mahmadpur Gautam, P.S.- Nayagaon, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Yadav, Adv.

For the Opposite Party/s : Mr. Anant Kumar 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 30-08-2024 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 Nayagaon P.S. Case No. 57 of 2023 dated 24.10.2023 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 22.500 litres of foreign liquor was recovered from the paddy field of the co-accused, Chhotu Singh.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The recovery was made from an open



place that was accessible to anyone. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. The name of the petitioner has sprung up on mere suspicion. The petitioner no.1 has no criminal antecedent and the petitioner no.2 has one criminal antecedent as stated in para 3 of the bail petition. The similarly situated co-accused has been granted bail by this vide order dated 31.01.2024 in Cr. Misc. No. 1245 of 2024. Learned counsel has submitted that no case is made out against the petitioner. 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 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 petitioner 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 record, let the above named petitioner, in the event of his 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) with two sureties of the like amount each to the satisfaction of the learned court concerned, Begusarai in connection with Nayagaon P.S. Case No. 57 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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