

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43391 of 2024

Arising Out of PS. Case No.-120 Year-2024 Thana- PAHARPUR District- East Champaran

1. GORAKH YADAV S/O RAMCHANDRA YADAV R/O VILLAGE-NAUWADIH, ENGLISH, P.S- PAHARPUR, DISTT.- EAST CHAMPARAN.
2. JHUNNA YADAV S/O DHARAMNATH YADAV R/O VILLAGE-NAUWADIH, ENGLISH, P.S- PAHARPUR, DISTT.- EAST CHAMPARAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Adv.
For the Opposite Party/s : Mrs.Shaheen Begum, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 06-09-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. Learned counsel has submitted that the bail application of the petitioner no. 1 Gorakh Yadav was dismissed as withdrawn.

3. The petitioner is apprehending his arrest in a case in connection with Paharpur P.S. Case No. 120 of 2024 dated 24.03.2024 registered for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 61.830 litres of illicit foreign liquor was recovered from the bush behind the



house of the petitioner.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has four criminal antecedents in which he is on bail as stated in para 3 of the bail petition. The name of the petitioner has surfaced in this case merely on suspicion. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted regular bail by this court vide order dated 19.06.2024 passed in Cr. Misc. No. 41858 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 petitioner by submitting that the bar of Section 76(2) of the Act applies in this



case.

7. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioner, let the above named petitioner no. 2 Jhunna Yadav, in the event of his 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) with two sureties of the like amount each to the satisfaction of learned Court concerned, East Champaran at Motihari in connection with Paharpur P.S. Case No. 120 of 2024, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure with further condition :-

(i) The petitioner no. 2 Junna Yadav is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

8. This application stands allowed.

(Chandra Prakash Singh, J)

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