

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41632 of 2024

Arising Out of PS. Case No.-18 Year-2021 Thana- Excise P.S. District- Madhepura

1. Lakhichand Sah S/O Late Ram Prasad Sah R/O Village Jiwachhpur, Ward No.06, P.S. Madhepura(Bharrahi O.P.), Distt-Madhepura
2. Suraj Kumar S/O Lakhichand Sah R/O Village Jiwachhpur, Ward No.06, P.S. Madhepura(Bharrahi O.P.), Distt-Madhepura
3. Deepak Kumar S/O Lakhichand Sah R/O Village Jiwachhpur, Ward No.06, P.S. Madhepura(Bharrahi O.P.), Distt-Madhepura

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dr Sanjay Kumar Singh, Adv.
For the Opposite Party/s : Mr.Sucheta Yadav, 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 connection with Madhepura Excise P.S. Case No. 18 of 2021 dated 25.11.2021 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 120 litres of illicit country made liquor and 1000 litres of raw materials were recovered from the bamboo clump (baswari).

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been



implicated in this case. The petitioner no. 1 has 3 criminal antecedents, the petitioner no. 2 has 1 criminal antecedent and the petitioner no. 3 has 3 criminal antecedents as stated in para 3 of the bail petition. Learned counsel has further submitted that the recovery is made from an open place which is accessible to anyone. The name of the petitioners was transpired on the basis of secret information. Nothing has been recovered from the conscious possession of the petitioners, hence no case is made out against the petitioners. 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, Madhepura in connection with Madhepura Excise P.S. Case No. 18 of 2021, 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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