

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44613 of 2024

Arising Out of PS. Case No.-72 Year-2024 Thana- MAHESHKHUNT District- Khagaria

1. Roushan Chourasiya Son of Vijay Chourasiya R/O Puwari Tola, N.H-107 Maheshkhunt, P.S.- Maheshkhunt, Dist.- Khagaria
2. Mithlesh Paswan Son of Bhikho Paswan R/O Maheshkhunt English Tola Ward no.6, P.S.- Maheshkhunt, Dist.- Khagaria

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Santosh Kumar Singh, Adv.

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 06-09-2024 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 Maheshkhunt P.S. Case No. 72 of 2024 dated 18.04.2024 registered for the offences punishable u/ss 188, 420, 467, 471 read with Section 34 of the Indian Penal Code and u/ss 30(a), 31(i)(ii) and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 807.48 litres of illicit foreign liquor was recovered from the three different motorcycles.

4. Learned counsel for the petitioners have submitted



that the petitioners are innocent and have falsely been implicated in this case. The petitioners are not the owner of the seized motorcycles. The name of the petitioners was disclosed by the local Chaowkidar. No incriminating material has been recovered from the conscious possession of the petitioners. The petitioners have no concern with the alleged recovery. 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 co-accused has been granted regular bail by this Court vide order dated 23.07.2024 passed in Cr. Misc. No. 52014 of 2024. Learned counsel has submitted that 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 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 material available on record, 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) with two sureties of the like amount each to the satisfaction of the learned court concerned, Khagaria in connection with Maheshkhunt P.S. Case No. 72 of 2024, 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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