

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50117 of 2024

Arising Out of PS. Case No.-141 Year-2024 Thana- SISWAN District- Siwan

1. Chintu Singh @ Vishal Singh @ Chindu Singh Son of Srinivas Singh R/o Village - Gangpur Siswan, P.S.- Siswan, District - Siwan
2. Jitendra Yadav @ Littan Yadav Son of Rasnarayan Yadav R/o Village - Gangpur Siswan, P.S.- Siswan, District - Siwan

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Partys

Appearance :

For the Petitioner	:	Mr.Ajay Kumar Tiwary, Advocate Mr. Shyam Bihari Singh, Advocate
For the Opposite Party	:	Mr.Shyam Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 30-08-2024 Heard learned counsel for the petitioners and learned
A.P.P for the State.

2. Learned counsel for the petitioners submits that the petitioner no. 1 has been arrested. Accordingly, he seeks permission to withdraw the present application.

3. Permission is accorded.

4. Accordingly, the present application of the petitioner no. 1 is dismissed as withdrawn.

5. The petitioner is apprehending his arrest in connection with Siswan P.S Case No. 141/2024 dated 04.05.2024 registered for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.



6. As per the prosecution case, total 694.240 litres of illicit country made and foreign liquor kept in sacks was recovered near the Akadwa Ghat (Ghaghra river) and from the boat.

7. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is not the owner of the said boat. The other co-accused person has already been granted bail by this court *vide* order dated 02.07.2024 passed in Cr. Misc. No. 45352/2024. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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. The petitioner has two criminal antecedents as stated in para 3 of the bail petition.

8. 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.

9. Considering the aforesaid facts and circumstances of the case, 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, Siwan in connection with Siswan P.S Case No. 141/2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

10. The application stands allowed.

(Chandra Prakash Singh, J)

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