

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46894 of 2024

Arising Out of PS. Case No.-146 Year-2024 Thana- SIRDALA District- Nawada

-
1. MANOJ PRASAD SON OF RAMCHANDRA PRASAD VILLAGE-BIHITIA, P.S.- PARNADABAR, DISTT.- NAWADA
 2. MUNDRIKA PRASAD SON OF RUPCHAND PRASAD VILLAGE-KOSMATARI, P.S.- PANADABAR, DISTT.- NAWADA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Deepak Kumar, Adv.

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 13-09-2024 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 Sirdalla P.S. Case No. 146 of 2024 dated 08.04.2023 registered for the offences punishable under sections 30(a)(c)/41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 390 litres of illicit country made liquor and 2600 litres fermented jawa mahua were recovered from the Bahuara forest.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioners have two criminal



antecedents in which they are on bail as stated in para 3 of the bail petition. The alleged recovery has been made from an open place which is accessible to anyone. The petitioners have no concern with the alleged recovery. Local chowkidar disclosed the name of the petitioners. Nothing has been recovered from the conscious possession of the petitioners, hence no case is made out. The co-accused person has already been granted regular bail by this court vide order dated 16.05.2024 passed in Cr. Misc. No. 37528 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 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 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 learned Court concerned, Nawada in connection with Sirdalla P.S. Case No. 146 of 2024, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

Gautam/-

U		T	
---	--	---	--

