

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50785 of 2024

Arising Out of PS. Case No.-71 Year-2024 Thana- KALUAHI District- Madhubani

1. Tejan Mukhiya S/o Chalittar Mukhiya R/o vill - Mangal Tole, P.S. - Kaluahi, Distt. - Madhubani
2. Shivan Mukhiya S/o Mangal Mukhiya R/o vill - Mangal Tole, P.S. - Kaluahi, Distt. - Madhubani
3. Jitender Mukhiya S/o Banwali Mukhiya R/o vill - Mangal Tole, P.S. - Kaluahi, Distt. - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md Soban Asghar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 20-09-2024 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 Kaluahi P.S. Case No. 71 of 2024 dated 20.04.2024 for the offence/s punishable u/ss 272 and 273 read with Section 34 of the IPC and 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 80 litres of illicit country liquor was recovered from the E-rickshaw.

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



implicated in this case. The name of the petitioners has sprung up in this case in the confessional statement of co-accused, Suraj Ram. The petitioners are not the owner of the seized E-rickshaw. No incriminating material has been recovered from the conscious possession of the petitioners. The petitioners have no concern with the alleged recovery. The petitioners have no 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 25.06.2024 passed in Cr. Misc. No. 43126 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 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) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Madhubani in connection with Kaluahi P.S. Case No. 71 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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