

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53915 of 2024

Arising Out of PS. Case No.-419 Year-2023 Thana- BHAGWAN BAZAR District- Saran

1. Gautam Singh @ Gautam Kumar Singh S/o Bidhata Singh R/o vill - Chacha Tola, P.S. - Bairiya, Distt. - Ballia (U.P)
2. Amarjeet Singh S/o Chandrahas Singh R/o vill - Chacha Tola, P.S. - Bairiya, Distt. - Ballia (U.P)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh, Advocate

For the Opposite Party/s : Mr. Manoj Kumar, A.P.P.

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 connection with Bhagwan Bazar P.S Case No. 419 of 2023 dated 20.10.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 129 litres of illicit foreign liquor was recovered from dickey of the Alto car.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The apprehended person disclosed the name of the petitioners. No incriminating article has been



recovered from the conscious possession of the petitioners, hence no case is made out. The petitioner no. 1 has one criminal antecedent and the petitioner No. 2 has two criminal antecedents as stated in para 3 of the bail petition. The co-accused person has already been granted bail by this Court vide order dated 01.04.2024 passed in Cr. Misc. No. 20533 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 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, Saran at Chapra in connection with Bhagwan Bazar P.S Case No. 419 of 2023, 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)

Aman Kumar/-

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