

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58886 of 2024

Arising Out of PS. Case No.-337 Year-2024 Thana- SONEPUR District- Saran

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1. Bhuiya Baba @ Sanjay Rai Son of Kunjbihari Ray @ Kujbihari Ray
Resident of village - Sabalpur Chaharam, P.S.- Sonepur, District - Saran
 2. Subodh Rai @ Subodh Kumar Son of Parma Rai Resident of village -
Sabalpur Chaharam, P.S.- Sonepur, District - Saran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Singh No. I, Adv.

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

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 04-10-2024 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 Sonepur P.S. Case No. 337 of 2024 dated
14.04.2024 registered for the offences punishable u/s 30(a) of
the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 972 litres of illicit
foreign liquor was recovered from the *Boat*.

4. Learned counsel for the petitioners have submitted
that the petitioners are innocent and have falsely been
implicated in this case. The petitioners have one criminal
antecedent as stated in para 3 of the bail petition. The petitioners



are not the owner of the said seized boat. The petitioners have no concern with the alleged recovery. The name of the petitioners was disclosed by local chowkidar. 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 23.07.2024 passed in Cr. Misc. No. 52675 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, Saran in connection with Sonapur P.S. Case No. 337 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)

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