

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56289 of 2024

Arising Out of PS. Case No.-65 Year-2024 Thana- SIKTI District- Araria

1. SHARWAN KUMAR MANDAL @ CHHOTU MANDAL S/O PRATAP MANDAL R/O VILLAGE- THENGAPUR, SATBER, PIPRA WARD NO.-12, P.S- BARDAHA, DISTT.- ARARIA.
2. MD. RIZWAN @ RIZWAN S/O MD. KHALIL ANSARI @ KHALIL R/O VILLAGE- BARUDAH, WARD NO.-2, P.S- SIKTY, DISTT.- ARARIA.
3. BRAJESH KUMAR MANDAL @ BRAJESH MANDAL S/O SATTAN MANDAL R/O VILLAGE- AAMGACHHI, WARD NO.-06, P.S- SIKTY, DISTT.- ARARIA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh, Adv.
For the Opposite Party/s : Mr.Braj Kishore Pd.(App)

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 27-09-2024 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 Sikty P.S. Case No. 65 of 2024 dated 28.04.2024 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 188.7 litres of illicit Nepali country made liquor kept in sacks was recovered from the motorcycle and roadside.

4. Learned counsel for the petitioners has submitted



that the petitioners are innocent and have falsely been implicated in this case. The petitioner nos. 1 and 2 have two criminal antecedents whereas the petitioner no. 3 has one criminal antecedent as stated in para 3 of the bail petition. The name of the petitioners was disclosed by the co-accused person. It is further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. 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 anticipatory bail by this court vide order dated 20.09.2024 passed in Cr. Misc. No. 53723 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, Araria in connection with Sikty P.S. Case No. 65 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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