

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62884 of 2024

Arising Out of PS. Case No.-98 Year-2024 Thana- RAGHUNATHPUR District- Siwan

1. Shailendra Bin Son of Kanhaiya Bin Resident of Gavirar Bin Tola, P.S.- Raghunathpur, District- Siwan
2. Munna Bin Son of Dashrath Bin Resident of Gavirar Bin Tola, P.S.- Raghunathpur, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raghav Prasad, Adv.

For the Opposite Party/s : Mr.Gauri Shankar Gupta, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 20-11-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Raghunathpur P.S. Case No. 98 of 2024 dated 23.04.2024 registered for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 639 litres of illicit country made liquor was recovered from the bush.

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



the petitioners has sprung up in the confessional statement of the co-accused, Ram Lal Bin. It is further submitted that the petitioners have 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 13.09.2024 passed in Cr. Misc. No. 46554 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) each with two sureties of the like amount each to the satisfaction of the learned Court concerned, Siwan in connection with Raghunathpur P.S. Case No. 98 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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