

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66044 of 2024

Arising Out of PS. Case No.-398 Year-2024 Thana- SITAMARHI District- Sitamarhi

1. AJAY KUMAR S/o RAM SHATRUDHAN SINGH RESIDETN OF VILLAGE- SHIV MAHMADPUR, PS- SITAMARHI, DISTRICT- SITAMARHI
2. Ramesh Kumar S/o Bhaidnath Mahto R/o vill - Kamalpura, P.S. and Distt. - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Adv.
For the Opposite Party/s : Mr. Asha Devi, 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 a case in connection with Sitamarhi P.S. Case No. 398 of 2024 dated 27.06.2024 for the offence/s punishable u/s 414 of the Indian Penal Code and under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 460.56 litres of illicit Nepali country made liquor was recovered from the Scorpio.

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



implicated in this case. The petitioners are neither the owner nor the driver of the said seized vehicle. Nothing has been recovered from the conscious possession of the petitioners. The petitioners have no concern with the alleged recovery. The apprehended co-accused person disclosed the name of the petitioners. 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 regular bail by this Court vide order dated 19.08.2024 in Cr. Misc. No. 59256 of 2024. Learned counsel has submitted that no case is made out against the petitioners. 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) with two sureties of the like amount each to the satisfaction of the learned court concerned, Sitamarhi in connection with Sitamarhi P.S. Case No. 398 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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