

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66586 of 2024

Arising Out of PS. Case No.-50 Year-2024 Thana- ARERAJ District- East Champaran

1. Dharmendra Nut @ Dharmendra Nat Son of Rasai Nut @ Dasai Nut Resident of village - Barwa, Ward no. 11, Nut toli, Ps- Areraj, Dist- East Champaran
2. Raju Nut Son of Dsai Nut Resident of village - Barwa, Ward no. 11, Nut toli, Ps- Areraj, Dist- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Abhishek Kumar, Adv. Mr. Hemant Ray, Adv.
For the Opposite Party/s	:	Mr. Shyam Kumar Singh

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 04-12-2024 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 Areraj P.S. Case No. 50 of 2024 dated 13.05.2024 registered for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act and Sections 272, 273 read with Section 34 of the Indian Penal Code.

3. As per the prosecution case, total 42.01 litres of illicit country made liquor kept in three plastic sacks was recovered from the field of one Madan Pandey.

4. Learned counsel for the petitioners has submitted



that the petitioners are innocent and have falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioners. The name of the petitioners have transpired in this case merely on suspicion. The recovery was made from an open place that was accessible to anyone. The petitioners have no concern with the alleged recovery. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. The co-accused has been granted regular bail by this Court vide order dated 04.09.2024 in Cr. Misc. No. 63411 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, Motihari, East Champaran in connection with Areraj P.S. Case No. 50 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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