

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73881 of 2024

Arising Out of PS. Case No.-175 Year-2024 Thana- CHANPATIA District- West Champaran

1. Deepak Kumar @ Deepak Jaiswal @ Deepak Kumar Jaiswal S/o Anil Jaiswal R/o vill - Ward no. 6, Gandhi Nagar, P.s. - Chanpatia, Distt. - West Champaran
2. Ujjawal Kumar @ Samir Kumar @ Ujaval Kumar S/o Chitranjan Sharma R/o vill - Ward no. 6, Gandhi Nagar, P.s. - Chanpatia, Distt. - West Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Kumar Gupta
For the Opposite Party/s : Mr.Parmanand Prasad

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 23-10-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. Learned counsel for the petitioners has submitted that the petitioner no. 1 has been arrested and seeks permission to withdraw the present application for the petitioner no. 1, namely, Deepak Kumar @ Deepak Jaiswal @ Deepak Kumar Jaiswal.

3. Permission is accorded.

4. Accordingly, the present application for the petitioner no. 1, namely, Deepak Kumar @ Deepak Jaiswal @ Deepak Kumar Jaiswal is dismissed as withdrawn.

5. The petitioner no. 2 is apprehending his/her arrest in a case in connection with Chanpatiya P.S. Case No. 175 of 2024



dated 30.07.2024 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

6. As per the prosecution case, total 6 litres of illicit foreign liquor was recovered from the Mango orchard.

7. Learned counsel for the petitioners has submitted that the petitioner no. 2 is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner no. 2. The recovery was made from an open place that is accessible to anyone. Mahal Chowkidar disclosed the name of the petitioner no. 2. The petitioner no. 2 has no concern with the alleged recovery. The petitioner no. 2 has two criminal antecedents as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner no. 2. 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.

8. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner no. 2 by



submitting that the bar of Section 76(2) of the Act applies in this case.

9. Considering the aforesaid facts and circumstances of the case as well as the material available on the record, let the above named petitioner no. 2, namely, Ujjawal Kumar @ Samir Kumar @ Ujaval Kumar in the event of his/her 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, Bettiah, West Champaran in connection with Chanpatiya P.S. Case No. 175 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

10. The application for the petitioner no. 2, namely, Ujjawal Kumar @ Samir Kumar @ Ujaval Kumar stands allowed.

(Chandra Prakash Singh, J)

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