

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73247 of 2024

Arising Out of PS. Case No.-216 Year-2024 Thana- AMNAUR District- Saran

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1. Vikash Rai @ Vikash Kumar Son of Darvesh Ray R/O Vill.- Dudhalia Bye Pass, P.S.-Sonpur, Dist.- Chapra
 2. Jitendra Sah @ Jitendra Kumar Son of Bihari Sah R/O Vill.- Dudhalia Bye Pass, P.S.-Sonpur, Dist.- Chapra
 3. Baban Rai @ Baban Kumar Son of Ram Sarekhi Rai R/O Vill.- Pahari Chak, P.S.-Sonpur, Dist.- Chapra

... .. Petitioner/s

Versus

The State Of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anuj Kumar, Adv.
For the Opposite Party/s : Mr.Ramesh Chandra, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 11-12-2024 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 Amnour P.S Case No. 216/2024 dated 11.07.2024 registered for the offence punishable u/s 30(a) and 47 of the Bihar Prohibition and Excise Act and Section 317(5) of the B.N.S.

3. As per the prosecution case, total 467.3 litres of illicit foreign liquor was recovered from the tractor.

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 no criminal antecedent whereas the petitioner no. 3 has one criminal antecedent as stated in para 3 of the bail petition. The name of the petitioners has sprung up in the confessional statement of the co-accused, Raju Kumar and Birju Kumar. The petitioners are not the owner of the said vehicle and they have no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioners, hence no case is made out. The co-accused persons have already been granted regular bail by this court vide order dated 09.09.2024 passed in Cr. Misc. No. 63548 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, Saran at Chapra, in connection with Amnour P.S Case No. 216/2024, subject to conditions as laid down under Section 482(2) of the BNSS.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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