

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78789 of 2023

Arising Out of PS. Case No.-220 Year-2023 Thana- BARHIYA District- Lakhisarai

1. Dhananjay Kumar @ Garo @ Dharanjay Kumar Son Of Late Birju Mahto
Resident Of Village- Jaitpur, P.S.- Barahiya, District- Lakhisarai
2. Bhushan Mandal @ Raushan Kumar Son Of Late Baleshwar Mahto
Resident Of Village- Jaitpur, P.S.- Barahiya, District- Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mayank Bilochan, Adv.

For the Opposite Party/s : Mr.Pradeep Narain Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 04-01-2024 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 Barahiya P.S. Case No. 220 of 2023 dated 25.09.2023 registered for the offences punishable u/s 30(a), 32 and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 16.5 litres of foreign liquor was recovered from the Tempo. Police apprehended one person and other persons fled away from the spot. The apprehended person disclosed the name of the petitioners.

5. Learned counsel for the petitioners has submitted



that the petitioners have falsely been implicated in this case. The petitioners have one criminal antecedent as stated in para 3 of the bail petition. The name of the petitioners transpired in this case on the basis of disclosure statement made by the apprehended co-accused namely Rohit Kumar. The petitioners are not the owner of the seized vehicle as stated in para 13 of the bail petition. Learned counsel has further submitted that the petitioners have no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioners hence, no case is made out. 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.

6. 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, Lakhisarai in connection with Barahiya P.S. Case No. 220 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

Gautam/-

U		T	
---	--	---	--

