

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79077 of 2023

Arising Out of PS. Case No.-311 Year-2023 Thana- WARISNAGAR District- Samastipur

1. Prince Kumar Singh @ Prince Kumar S/O Awadhesh Singh Village-Darshur, Ps. Warisnagar, Dist.Samastipur
2. Dhananjay Kumar @ Dhajanjay Kumar Singh S/O Awadhesh Singh Village-Darshur, Ps. Warisnagar, Dist.Samastipur

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vinay Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Md. Anzarul Haque Sahara, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 04-01-2024 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

2. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

3. The petitioners are apprehending their arrest in connection with Warisnagar P.S Case No. 311 of 2023 dated 05.09.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 3 litres of illicit liquor was recovered from the bag thrown by the



accused persons in the filed of Rahul Kumar Singh.

5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioner no.1 has no criminal antecedent whereas petitioner no.2 has one criminal antecedent as stated at para 3 of the bail petition. The said bag does not belong to the petitioners. No incriminating article 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.



7. 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 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, Samastipur in connection with Warisnagar P.S Case No. 311 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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