

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80147 of 2023

Arising Out of PS. Case No.-416 Year-2023 Thana- ARA MUFFSIL District- Bhojpur

1. Prakash Singh @ Prakash Kumar Son Of Bikrama Prasad Resident Of Village Bhadejan Ps Ara Muffasil Dist Bhojpur
2. Akash Kumar Singh @ Akash Kumar Son Of Praphul Prasad Resident Of Village Bhadejan Ps Ara Muffasil Dist Bhojpur

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raju Kumar Singh
For the Opposite Party/s : Mr.Rana Randhir Singh

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 09-01-2024 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 Ara Muffasil P.S. Case No. 416 of 2023 dated 24.09.2023 registered for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 34.56 litres of foreign liquor was recovered from the bag kept on the motorcycle.



5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioner No. 1 is accused in one more criminal case and the petitioner no. 2 is accused in two other criminal cases as stated in para 3 of the bail petition. The said vehicle was not being driven by the petitioners at the time of alleged recovery. 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) each with two sureties of the like amount each to the satisfaction of learned Court concerned, Bhojpur at Ara in connection with Ara Muffasil P.S. Case No. 416 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. This application stands allowed.

(Chandra Prakash Singh, J)

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