

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82374 of 2023

Arising Out of PS. Case No.-676 Year-2021 Thana- MAJHAULIA District- West Champaran

1. JULUM MANJHI Son of Hansraj Manjhi R/o vill - Jawkatiya, ward no. 7, Distt. - West Champaran
2. Nagina Manjhi @ Nagina Kumar Son of Julum Manjhi R/o vill - Jawkatiya, ward no. 7, Distt. - West Champaran
3. Laldev Manjhi @ Laldev Kumar Son of Babulal Manjhi R/o vill - Jawkatiya, ward no. 7, Distt. - West Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sujeet Kumar, Adv.
For the Opposite Party/s : Mr.Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 15-01-2024 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 Majhauriya P.S. Case No. 676 of 2021 dated 06.12.2021 registered for the offences punishable u/s 30(a), (d) and 45 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1.6 litres of illicit country made chulai liquor was recovered from the bag of the co-accused, Gopi Manjhi and 5 litres of illicit country made chulai liquor was recovered from the hut behind the house of the co-accused Joniha Devi. It is further alleged that some people



started protesting to release the apprehended persons, who were identified as the petitioner and the other co-accused persons.

5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioners was transpired by local *Chowkidar*. Nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from the co-accused persons, 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, Bettiah, West Champaran in connection with Majhauriya P.S. Case No. 676 of 2021, 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)

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