

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81542 of 2023

Arising Out of PS. Case No.-450 Year-2020 Thana- BYPASS District- Patna

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1. Shrawan Singh @ Sharma Son Of Dev Kumar Singh R/O Village- Marcha, Post- Marcha Mirchi, P.S- Bypass, Dist.- Patna
 2. Santosh Singh @ Santosh Ray Son Of Kameshwar Ray R/O Sultanpur, P.S.- Danapur, Dist.- Patna

... .. Petitioner/s

Versus

The State Of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prabhat Narayan Sharma, Adv.

For the Opposite Party/s : Mr. Manoj Kumar No. 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 12-01-2024 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 a case in connection with Bypass P.S. Case No. 450 of 2020, Special Case No. 7673 of 2020 dated 27.12.2020 for the offence/s punishable u/ss 30(a) and 36 of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 70 litres of illicit country made liquor was recovered from the *Khalihan* of the petitioner no. 1.

5. Learned counsel for the petitioners has submitted that



the petitioners have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The recovery was made from an open place that is accessible to anyone. The petitioners have no criminal antecedents as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of the Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar 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 material available on record, 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 the learned court concerned, Patna City, Patna in connection with Bypass P.S. Case No. 450 of 2020, Special Case No. 7673 of 2020 , subject



to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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