

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80945 of 2023

Arising Out of PS. Case No.-381 Year-2023 Thana- GORAUL District- Vaishali

Dharmendra Rai @ Gais @ Gas Son Of Ram Sagar Rai R/O Village- Baghi,
P.S.- Maniyari, Dist.- Muzaffarpur At Present R/O Village- Mathana, P.S.-
Katahara, Dist.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 85794 of 2023

Arising Out of PS. Case No.-381 Year-2023 Thana- GORAUL District- Vaishali

Manish Kumar @ Lalu S/O Bhikhari Singh @ Surendra Singh R/O Village-
Maudh Chatur, P.S- Patepur, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 80945 of 2023)

For the Petitioner/s : Mr. Alok Kumar Alok, Advocate.

For the Opposite Party/s : Mr. Umeshanand Pandit, A.P.P.

(In CRIMINAL MISCELLANEOUS No. 85794 of 2023)

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate.

For the Opposite Party/s : Mr. Rina Sinha, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 11-01-2024 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 Goraul P.S Case No. 381 of 2023 dated 10.09.2023 for the offences punishable u/ss 30(a), 32(2), 36(i), 41(1) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 708.48 litres of illicit liquor was recovered out of which 09 litres was recovered from Honda Shine motorcycle, 162 litres was recovered from the Scorpio car, 45 litres was recovered from the Tata Safari and 492.48 was recovered from the ten wheeler truck.

5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. It is further submitted that the apprehended co-accused namely, Raja Kumar disclosed the name of the petitioners. The petitioner namely, Dharmendra Rai, @ Gais @ Gas has one criminal antecedent whereas the petitioner namely, Manish Kumar @ Lalu has five criminal antecedents as stated at para 3 of the bail petition. 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, Vaishali, Hajipur in connection with Goraul P.S Case No. 381 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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