

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79216 of 2023

Arising Out of PS. Case No.-436 Year-2023 Thana- GRIYAK District- Nalanda

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1. Lalmuni Devi W/O Late Alla Chaudhary R/O Village- Maira, Ps. Katarisaraï, Dist. Nalanda
 2. Asha Devi W/O Late Munshi Chaudhary @ Ram Ishwar Chaudhary R/O Village- Maira, Ps. Katarisaraï, Dist. Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raj Kishor Prasad, Adv.

For the Opposite Party/s : Mr.Damodar Prasad Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 05-01-2024 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 GiriyaK (Katrisaraï) P.S. Case No. 436 of 2023 dated 24.09.2023 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 8 litres of illicit liquor was recovered in front of the door of the house of the petitioners.

5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioners are ladies and they have no criminal antecedent as



stated in para 3 of the bail petition. The name of the petitioners was disclosed by local Chowkidar. The petitioners have no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. Nothing 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.

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, Nalanda at Biharsharif in connection with Giriyak (Katrisarai) P.S. Case No. 436 of 2023, 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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