

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80510 of 2023

Arising Out of PS. Case No.-79 Year-2023 Thana- AZIMABAD District- Bhojpur

1. Dhananjay Chaudhary S/O Bhuwar Chaudhary Resident Of Village- Mehdaura, P.S. Azimabad, District- Bhojpur
2. Ram Niwas Chaudhary S/O Shivchand Chaudhary Resident Of Village- Mehdaura, P.S. Azimabad, District- Bhojpur
3. Bipul Chaudhary S/O Doma Chaudhary Resident Of Village- Mehdaura, P.S. Azimabad, District- Bhojpur
4. Krishna Chaudhary S/O Jugati Chaudhary Resident Of Village- Mehdaura, P.S. Azimabad, District- Bhojpur
5. Rajesh Chaudhary @ Dinbandhu Chaudhary S/O Ramdayal Chaudhary Resident Of Village- Mehdaura, P.S. Azimabad, District- Bhojpur
6. Brahma Chaudhary S/O Kariman Chaudhary Resident Of Village- Mehdaura, P.S. Azimabad, District- Bhojpur
7. Mangal Chaudhary S/O Late Tapsya Chaudhary Resident Of Village- Mehdaura, P.S. Azimabad, District- Bhojpur
8. Guddu Chaudhary Son Of Late Tapsya Chaudhary Resident Of Village- Mehdaura, P.S. Azimabad, District- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raju Kumar Singh, Adv.

For the Opposite Party/s : Mr.Shyam Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 10-01-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. Learned counsel for the appellants seeks permission to withdraw the present anticipatory bail application with respect to the petitioner no. 4 and 5 i.e. Krishna Chaudhary and Rajesh Chaudhary @ Dinbandhu Chaudhary, who have already been arrested.

Permission is accorded.

Accordingly, the present anticipatory bail application is



dismissed as withdrawn with respect to petitioner no. 4 and 5.

3. The petitioners are apprehending their arrest in a case in connection with Azimabad P.S. Case No. 79 of 2023 dated 13.09.2023 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 55 litres of illicit liquor was recovered from the bank of the Sone river near the poultry farm of Mukti Narayan Singh.

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 in this case only on the basis of suspicion. Learned counsel has further submitted that the petitioners have no concern with the 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 petitioner no. 1, 2, 3, 6, 7 and 8, 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, Bhojpur at Ara in connection with Azimabad P.S. Case No. 79 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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