

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81641 of 2023

Arising Out of PS. Case No.-271 Year-2023 Thana- SUPAUL District- Supaul

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1. RAJENDRA MANDAL SON OF LATE RAGHUVIR MANDAL
RESIDENT OF VILLAGE- MARICHA, WARD NO. 13, P.S.- SUPAUL,
DISTRICT- SUPAUL, STATE- BIHAR- 852131
 2. AMAN KUMAR S/O Rajendra Mandal RESIDENT OF VILLAGE-
MARICHA, WARD NO. 13, P.S.- SUPAUL, DISTRICT- SUPAUL, STATE-
BIHAR- 852131

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kuldeep Kumar, Adv.

For the Opposite Party/s : Mr.Syed Ehteshamuddin, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 12-01-2024 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 Supaul P.S. Case No. 271 of 2023 dated
14.04.2023 registered for the offences punishable u/s 30(a) of the
Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1 litre of illicit
country made liquor, utensil, gas stove and gas cylinder were
recovered from the bush.

5. Learned counsel for the petitioners has submitted
that the petitioners have falsely been implicated in this case. The



petitioners have one criminal antecedent as stated at para 3 of the bail petition. The name of the petitioners was transpired in this case by local villagers. It is further submitted that the petitioners have no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from an open place, 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, Supaul in connection with Supaul P.S. Case No. 271 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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