

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80796 of 2023

Arising Out of PS. Case No.-111 Year-2023 Thana- MANIGACHI District- Darbhanga

1. Bhola Das @ Bholi Das son of Ramavtar Das Village- Putai Ps- Manigachhi Dist- Darbhanga
2. Dashrath Das @ Chhichhu Das @ Chuchu Das son of Ramavtar Das Village- Putai Ps- Manigachhi Dist- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate
For the Opposite Party/s : Mr. Shaheen Begum, 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 Manigachhi P.S Case No. 111 of 2023 dated 27.05.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 60 litres of illicit liquor was recovered from the Magic Van and 30 litres of illicit liquor was recovered from the co-accused Ramavtar Das.



5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioner no.1 has one criminal antecedent whereas the petitioner no.2 has two criminal antecedents as stated at para 3 of the bail petition. Learned counsel has further submitted that no incriminating article has been recovered from the conscious possession or the house of the petitioners. The entire recovery of liquor has been recovered from the magic van as well the house of the co-accused Ramavtar Das, hence no case is made out against the petitioners. It is further submitted that from bare perusal of the F.I.R., it is clear that the name of the petitioners has been disclosed by the arrested co-accused Ramavtar Das, who happened to be father of these petitioners. The co-accused has already granted anticipatory bail by the Coordinate Bench of this court vide order dated 12.10.2023 passed in Cr. Misc. No. 65043 of 2023. 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, Darbhanga in connection with Manigachhi P.S Case No. 111 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

U		T	
---	--	---	--

