

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.79924 of 2023**

Arising Out of PS. Case No.-238 Year-2023 Thana- HATHUA District- Gopalganj

1. SONU KUMAR S/o Manoj Bhagat Resident of Chotak Hathua Bujurg, P.S.- Hathua, District- Gopalganj.
2. Adarsh Kumar S/o Ram Babu Yadav R/o village- Atwa Durg, P.S.- Hathua, District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Raghav Prasad, Advocate

For the Opposite Party/s : Mr.Rana Randhir Singh, APP

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

ORAL ORDER

2      08-01-2024      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 a case in connection with Hathua P.S. Case No. 238 of 2023 dated 07.10.2023 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 17.280 litres of illicit foreign liquor kept in a gunny bag was recovered from the motorcycle.

5. Learned counsel for the petitioners has submitted that



the petitioners have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The petitioners are neither the driver nor the owner of the said motorcycle. Local villagers disclosed the name of the petitioners. The petitioners are also accused in one more criminal case as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of the Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar 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 material available on record, 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) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Gopalganj in connection with Hathua P.S.



Case No. 238 of 2023, subject to conditions as laid down under  
section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

**(Chandra Prakash Singh, J)**

guddukr/-

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