

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81876 of 2023

Arising Out of PS. Case No.-1614 Year-2022 Thana- PHULWARISHARIF District- Patna

1. Nitish Kumar Manjhi @ Nitesh Kumar Son Of Ganesh Manjhi Resident Of Village - Hinduni, Police Station - Phulwarisharif, District - Patna
2. Satish Kumar Manjhi @ Satish Kumar Son Of Ganesh Manjhi Resident Of Village - Hinduni, Police Station - Phulwarisharif, District - Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Mukesh Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 15-01-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Phulwari Sharif P.S. Case No. 1614 of 2022 dated 22.12.2022 for the offences punishable u/ss 30(a), 30(c), 41 and 50 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 5 litres of illicit *mahua* wine was recovered from the two motorcycles.

4. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioners have no criminal antecedents as stated in para 3 of the bail petition. Learned counsel has further submitted that the



petitioners are neither the owner nor the driver of the said vehicle and the same was not being driven by the petitioners at the time of alleged recovery. It is 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 against the petitioners. 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.

5. 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 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, Patna in connection with Phulwari Sharif P.S. Case No. 1614 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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