

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1543 of 2024

Arising Out of PS. Case No.-879 Year-2023 Thana- TURKAULIYA District- East
Champaran

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1. Suman Kumar Son Of Narad Rai R/O Village- Khagani, P.S.- Turkauliya,
District- East Champaran
 2. Birbal Rai @ Birbal Yadav Son Of Narad Rai R/O Village- Khagani, P.S.-
Turkauliya, District- East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhannjay Kumar No 2, Adv.

For the Opposite Party/s : Mr.Uday Chand Prasad, APP

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

ORAL ORDER

2 01-02-2024 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 Turkauliya P.S. Case No. 879 of 2023 dated
08.08.2023 registered for the offences punishable u/s 30(a) and
41(i) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 15 litres of illicit
foreign liquor was recovered from the bush situated near the
road side.

4. Learned counsel for the petitioners has submitted
that the petitioners are innocent and 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 disclosed by local Chowkidar. It is further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. Nothing 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.

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 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, E. Champaran, Motihari in connection with Turkauliya P.S. Case No. 879 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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