

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82268 of 2023

Arising Out of PS. Case No.-783 Year-2023 Thana- MAJHAULIA District- West Champaran

1. Mohit Dhangad Son Of Mahendra Dhangad R/O Village- Dhokraha, Dhangad Toli, Ward No. 5, P.S.- Majhaulia, Dist.- West Champaran
2. Devchandra Dhangad Son Of Late Manbodh Dhangad R/O Village- Dhokraha, Dhangad Toli, Ward No. 5, P.S.- Majhaulia, Dist.- West Champaran
3. Neelam Devi Wife Of Late Umesh Dhagad R/O Village- Dhokraha, Dhangad Toli, Ward No. 5, P.S.- Majhaulia, Dist.- West Champaran
4. Jagi Devi @ Chinta Devi W/O Ramashankar Mahto R/O Village- Dhokraha, Dhangad Toli, Ward No. 5, P.S.- Majhaulia, Dist.- West Champaran

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Akhileshwar Kumar Shrivastva, Advocate
For the Opposite Party/s : Ms. Nirmala Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 12-01-2024 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. Learned counsel for the petitioners seeks permission to withdraw the present anticipatory bail application with regard to the petitioner no. 4 i.e. Jagi Devi @ Chinta Devi who has already been arrested.



4. Permission is accorded.

5. Accordingly, the present anticipatory bail application is dismissed as withdrawn with respect to the petitioner no. 4.

6. The petitioners are apprehending their arrest in connection with Majhauiliya P.S Case No. 783 of 2023 dated 10.09.2023 for the offences punishable u/s 30(a), 41 of the Bihar Prohibition and Excise Act.

7. As per the prosecution case, total 20 litres of illicit liquor was recovered from the bush near a primary school.

8. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. It is further submitted that the recovery is made from the bush which is an open place and accessible to any one. Learned counsel has further submitted that local chaukidar disclosed the name of the petitioners. The petitioner nos. 1 and 3 have no criminal antecedent whereas petitioner no. 2 has one criminal antecedent as stated at para 3 of the bail petition. No incriminating article 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.

9. 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.

10. 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, Bettiah, West



Champan in connection with Majhauilya P.S Case No.
783 of 2023 subject to conditions as laid down under
section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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