

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83766 of 2023

Arising Out of PS. Case No.-356 Year-2023 Thana- BIBHUTIPUR District- Samastipur

1. Sunil Kumar @ Badnasib, aged about 36 yrs, (male), Son of Upendra Singh R/O Village- Kerai, P.S.- Bibhutipur, Dist.- Samastipur
2. Ram Sagun Singh, male, aged about 51 yrs, Son of Raghunath Singh R/O Village- Kerai, P.S.- Bibhutipur, Dist.- Samastipur
3. Rupesh Kumar, male, aged about 8 yrs, Son Of Ram Sagun Singh R/O Village- Kerai, P.S.- Bibhutipur, Dist.- Samastipur

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Namita Sharma @ Namita Kumari, Advocate.
Mr. Anshu Dhar Sharma, Advocate.
For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 19-01-2024 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 Bibhutipur P.S. Case No. 356 of 2023 dated 08.09.2023 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act.



4. As per the prosecution case, total 30.690 litres of illicit liquor was recovered from the pan *bhandar* and fodder shop of the petitioner no.3 namely, Rupesh Kumar.

5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. There is general and omnibus allegation against the petitioner no.1, Sunil Kumar @ Badnasib and petitioner no.2, Ram Sagun Singh. No incriminating article has been recovered from the conscious possession of the petitioner nos. 1 and 2, 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. The petitioners have no criminal antecedent as stated in para 3 of the bail petition.



6. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioners.

7. Considering the aforesaid facts and circumstances of the case, let the petitioner no.1 namely, Sunil Kumar @ Badnasib and the petitioner no.2 namely, Ram Sagun Singh, 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, Exclusive Excise, Judge, 1st, Samastipur in connection with Bibhutipur P.S. Case No. 356 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed with regard to the petitioner no.1 namely, Sunil Kumar @ Badnasib and petitioner no.2 namely, Ram Sagun Singh.

9. So far as, the petitioner no.3 namely, Rupesh Kumar is concerned, considering the aforesaid facts and circumstances of the case as well the recovery is made from the shop of the petitioner no.3 namely, Rupesh Kumar, I am



of the view that no case for grant of anticipatory bail is made out and the same is disposed of with direction to the petitioner no.3 namely, Rupesh Kumar to surrender before the concerned Court below within six weeks from the date of this order and the learned Court below shall consider his prayer for regular bail in accordance with law without being prejudiced by this order.

10. Accordingly, the application regarding the petitioner no.3 namely, Rupesh Kumar stands disposed of.

(Chandra Prakash Singh, J)

Nilmani/-

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