

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1526 of 2024

Arising Out of PS. Case No.-285 Year-2023 Thana- MOHIUDDIN NAGAR District-
Samastipur

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1. Prem Kumar Paswan @ Prem Paswan Son Of Harendra Paswan @ Hillo @ Hallo Resident Of Village - Sivaisingpur, Ward No.16, P.S. - Mohiuddinnagar, District - Samastipur
 2. Pavan Paswan @ Pawan Paswan Son Of Harendra Paswan @ Hillo @ Hallo Resident Of Village - Sivaisingpur, Ward No.16, P.S. - Mohiuddinnagar, District - Samastipur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dilip Kumar Roy, Adv.
For the Opposite Party/s : Mrs.Madhuri Lata, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 29-01-2024 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. Learned counsel for the appellants seeks permission to withdraw the present anticipatory bail application with respect to the petitioner no. 1 i.e. Prem Kumar Paswan @ Prem Paswan, who has already been arrested.

Permission is accorded.

Accordingly, the present anticipatory bail application is dismissed as withdrawn with respect to petitioner no. 1.

3. The petitioner is apprehending his arrest in connection with Mohiuddin Nagar P.S. Case No. 285 of 2023



dated 14.10.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 60 litres of illicit country made liquor was recovered from the carrier of the cycles of both the petitioners.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. It is further submitted that the petitioner has no concern with the alleged recovery. The said cycles do not belong to the petitioners. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. 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.

6. Learned A.P.P. for the State has vehemently



opposed the prayer for anticipatory bail of the petitioner 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 nature of allegation against the petitioner, let the above named petitioner no. 2, in the event of his 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, Samastipur in connection with Mohiuddin Nagar P.S. Case No. 285 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)

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