

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84606 of 2023

Arising Out of PS. Case No.-204 Year-2023 Thana- KISHANPUR District- Supaul

1. Bharat Sah @ Bharat Kumar Sah S/O Jiwachha Sah R/O Village- Mahipatti, Ward No. 8, P.S- Kishanpur, Distt.- Supaul.
2. Raja Kumar S/O Raju Singh R/O Village- Mahipatti, P.S- Kishanpur, Distt.- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Alok Alok

For the Opposite Party/s : Mr.Sanjay Kumar Singh

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 24-01-2024 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 Kishanpur P.S. Case No. 204 of 2023 dated 05.09.2023 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 175 litres of illicit liquor was recovered from the Toyota Car. The apprehended persons disclosed the name of the petitioner.



5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioners are accused in one more criminal case as stated in para 3 of the bail petition. The petitioners are neither the owner nor the driver of the said vehicle. No incriminating article has been recovered from the conscious possession of the petitioners, hence no case is made out. The other co-accused person has already been granted bail by this Court *vide* order dated 11.01.2024 passed in Cr. Misc. No. 80722 of 2023. 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 petitioners 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 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 learned Court concerned, Supaul in connection with Kishanpur P.S. Case No. 204 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. This application stands allowed.

(Chandra Prakash Singh, J)

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