

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2327 of 2024

Arising Out of PS. Case No.-38 Year-2015 Thana- DHARHARA District- Munger

1. Siya Kora @ Siyaram Soren Son of Late Kanan Kora R/o vill - Barmasiya, P.S. - Dharhara, Distt. - Munger
2. Bhargo Kora S/o Late Kanan Kora R/o vill - Barmasiya, P.S. - Dharhara, Distt. - Munger

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravish Mishra
For the Opposite Party/s : Mr.Sharda Kumari

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 02-02-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Dharhara P.S. Case No. 38/2015 dated 13.03.2015 for the offences punishable under Sections 270/ 272/ 290 of the Indian Penal Code read with sections 2(c)/315(6)/18 of the Bihar Mahua Flower Act and under sections 47(a) /13(f) / 48(9) of the Excise Act.

3. As per the prosecution case, total 100 litres of country made liquor and 200 Kg. of mahua flower were recovered from the in-laws house of the petitioner Siya Kora and the house of the petitioners.



4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. He further submits that the petitioner no.1 has one criminal antecedent of similar nature in which he is on bail whereas the petitioner no. 2 has no criminal antecedent as stated in para 3 of the bail petition. The petitioners have no concern with the house of in-laws and the same belongs to other persons, hence no case is made out against the petitioners. 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 APP 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.

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 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, Munger in connection with Dharhara P.S. Case No. 38/2015, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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