

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6026 of 2024

Arising Out of PS. Case No.-631 Year-2023 Thana- FATUA District- Patna

-
1. Vishal Kumar S/O Jamahir Yadav Resident Of Village- Dumri, Police Station- Fatuha, District- Patna
 2. Jamahir Yadav S/O Late Basu Prasad Resident Of Village- Dumri, Police Station- Fatuha, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shashi Shekhar Kumar Prasad

For the Opposite Party/s : Mr. Nitya Nand Tiwary

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 16-02-2024 Learned counsel for the petitioners is directed 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 Fatua P.S. Case No. 631 of 2023, dated 22.08.2023, for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Amendment Act.

4. As per the prosecution case, total 15 litres of country made mahua liquor has been recovered from the motorcycle.



5. Learned counsel for the petitioners has submitted that the petitioners are innocent and has falsely been implicated in this case. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioners has come on secret information. No incriminating material has been recovered from the conscious possession of the petitioners, 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.

6. Learned APP 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 petitioner, 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, Patna in connection with Fatua P.S. Case No. 631 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)

Ranjeet/-

U		T	
---	--	---	--

