

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2107 of 2024

Arising Out of PS. Case No.-180 Year-2023 Thana- KATRA District- Muzaffarpur

1. Ramu Sahani @ Ramu Kumar S/O Anil Sahani Resident Of Village-
Bhoraha, Ps- Katra, Dsitric- Muzaffarpur
2. Kapileshwar Sahani S/O Bhagaru Sahani Resident Of Village- Bhoraha, Ps-
Katra, Dsitric- Muzaffarpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bhavesh Kumar

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 02-02-2024 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 Katra P.S. Case No. 180 of 2023, dated 05.07.2023 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

4. As per prosecution case, total 209.310 litres of



foreign liquor was recovered from the house of petitioner no. 2 (Kapileshwar Sahani),

5. Learned counsel for the petitioners has submitted that the petitioner are innocent and have falsely been implicated in this case. The petitioners have no criminal antecedents as stated in para 3 of the bail petition. No incriminating material has been recovered from the conscious possession of the petitioners, hence no case is made out against the petitioners. The name of the petitioners has transpired on the basis of confessional statement of local Chowkidar as well as local villagers. Similarly situated co-accused has been granted anticipatory bail vide order dated 17.10.2023 passed in Cr. Misc. No. 65863/2023. 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 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. He further submits that the alleged foreign liquor is recovered from the house of the petitioner no. 2.

7. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioner no. 1, let the above named petitioner no. 1, 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, Muzaffarpur in connection with Katra P.S. Case No. 180 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 petitioner no. 1.

9. So far as petitioner no. 2 is concerned, considering the aforesaid facts and circumstances of the case, I am of the view that no case for grant of anticipatory bail is made out against the petitioner no. 2 and the same is disposed of with direction to the petitioner no. 2 to surrender before the court below concerned within six weeks from today and pray for



regular bail and the learned Court below shall consider the prayer for regular bail of the petitioner on the same day without being prejudiced by this order.

(Chandra Prakash Singh, J)

Ranjeet/-

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