

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3203 of 2024

Arising Out of PS. Case No.-281 Year-2023 Thana- GUTHANI District- Siwan

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1. PRATAP SINGH S/O RAMPRIT SINGH R/O VILLAGE- CHITBISHRAW, P.S- GUTHANI, DISTT.- SIWAN.
 2. RAGHUBIR SINGH S/O RAMPRIT SINGH R/O VILLAGE- CHITBISHRAW, P.S- GUTHANI, DISTT.- SIWAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramadhar Shekhar, Adv.

For the Opposite Party/s : Mr.Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 09-02-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a case in connection with Guthani P.S. Case No. 281 of 2023 dated 25.10.2023 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 75.8 litres of country made liquor was recovered from the motorcycle.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioners. The petitioners are



neither the owner nor the driver of the said motorcycle. The petitioners have no concern with the alleged recovery. Local persons disclosed the name of the petitioners. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that 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 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 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.

6. Considering the aforesaid facts and circumstances of the case as well as the material available on record, 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) with two sureties of the like amount each to the satisfaction of the learned court concerned, Siwan in connection with Guthani P.S. Case No. 281 of 2023, 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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