

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4926 of 2024

Arising Out of PS. Case No.-237 Year-2023 Thana- BABUBARHI District- Madhubani

1. Vinod Kamat Son of Rambilash Kamat Resident of Village- Tirhuta, Ps- Babubarhi, District - Madhubani
2. Aadesh Raut Son of Shivnandan Raut Resident of Village- Navtoli, P.S.- Babubarhi, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Lakshmi Kant Sharma, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 15-02-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The Petitioner are apprehending their arrest in connection with Babubarhi P.S. Case No. 237 of 2023 dated 25.07.2023 of the offences punishable u/s 272, 273/34 of the Indian Penal Code with Sections 30(a) and 41 of the Bihar Prohibition and Excise Act 2016.

3. As per the prosecution case, total 9 litres nepali liquor, 8.64 litres of foreign liquor and 1080 litres of Nepali liquor were recovered from *Bolero pick-up van*.

4. Learned counsel for the petitioners have submitted that the petitioners are innocent and has falsely been implicated



in this case. The petitioners have no criminal case as stated at para 3 of the bail petition. The petitioners are not the owner of the said vehicle and the same was not being driven by him at the time of the alleged recovery. The name of the petitioners were disclosed by the apprehended person. No incriminating article has been recovered from the conscious possession of the petitioners, hence no case is made out. 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 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 nature of allegation against the petitioners, let the above named petitioners, 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, Madhubani in connection with Babubarhi P.S. Case No. 237 of 2023 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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