

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1676 of 2024

Arising Out of PS. Case No.-349 Year-2023 Thana- KOTWA District- East Champaran

1. Suraj Kumar Yadav S/O Upendra Yadav Village- Chaubetola, PS- Bhopatpur, Distt- East Champaran
2. Mohit Yadav S/O Late Manager Yadav Village- Chaubetola, PS- Bhopatpur, Distt- East Champaran
3. Anil Yadav S/O Lalita Yadav Village- Chaubetola, PS- Bhopatpur, Distt- East Champaran
4. Pappu Yadav S/O Lakhindra Rai Village- Chaubetola, PS- Bhopatpur, Distt- East Champaran
5. Jaikishor Yadav S/O Late Munshi Rai Village- Chaubetola, PS- Bhopatpur, Distt- East Champaran
6. Shatrudhan Yadav S/O Bhuthur Rai Village- Chaubetola, PS- Bhopatpur, Distt- East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar, Adv.
For the Opposite Party/s : Mr.Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 01-02-2024 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. Learned counsel for the appellants seeks permission to withdraw the present anticipatory bail application with respect to the petitioner no. 1 and 3 i.e. Suraj Kumar Yadav and Anil Yadav , who have already been arrested.

Permission is accorded.

Accordingly, the present anticipatory bail application is



dismissed as withdrawn with respect to petitioner no. 1 and 3.

3. The petitioners are apprehending their arrest in a case in connection with Kotwa P.S. Case No. 349 of 2023 dated 06.10.2023 registered for the offences punishable u/ss 147, 148, 149, 341, 323, 333, 353, 427, 504, 506 of the Indian Penal Code and u/s 30(a), 32, 41(1), 45 of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 241.92 litres of illicit foreign liquor was recovered near the stairs from the house of the petitioner no. 1. In front of the house, illicit liquor and bear were recovered from a car, illicit liquor of 180 ml was recovered from the two motorcycles. The counting of the bottles were yet to be done. In the meanwhile, 18-20 people came and caused hindrance in discharge of their official duty by pelting stones. The accused persons damaged the official vehicle and managed to take away the seized liquors and vehicles.

5. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioners have no criminal antecedent as stated at para 3 of the bail petition. The name of the petitioners was disclosed by local Chowkidar. The petitioners are not the owner of the said vehicles and the petitioners have no concern with the alleged recovery. Nothing



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.

6. 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.

7. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioners, let the above named petitioner no. 2, 4, 5 and 6, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on 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 learned court concerned, East Champaran at Motihari in connection with Kotwa (Bhopatpur) P.S. Case No. 349 of 2023, subject to conditions as laid down



under Section 438(2) of the Code of Criminal Procedure.

8. This application stands allowed.

(Chandra Prakash Singh, J)

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