

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3652 of 2024

Arising Out of PS. Case No.-101 Year-2023 Thana- TISIAUTA District- Vaishali

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1. Ranjeet Paswan S/O Late Nagendra Paswan R/O Vill - Bijharauli Bindi Chowk, Ps - Tisiauta, Dist - Vaishali
 2. Rahul Kumar S/O Ranjeet Paswan R/O Vill - Bijharauli Bindi Chowk, Ps - Tisiauta, Dist - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anuj Kumar

For the Opposite Party/s : Mr. Harendra Prasad

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 09-02-2024 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. Learned counsel for the petitioners seeks permission to withdraw the anticipatory bail application with respect to the petitioner no. 1 because he has already been arrested.

3. Permission is accorded.

4. Accordingly, the present anticipatory bail application is dismissed as withdrawn with respect to petitioner no. 1.

5. So far as regarding the petitioner no. 2 is apprehending his arrest in connection with Tisiauta P.S. Case



No. 101 of 2023, dated 10.11.2023 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2018.

6. As per prosecution case, total 16 litres of country made liquor was recovered from a hut.

7. Learned counsel for the petitioner no. 2 has submitted that the petitioner no. 2 is innocent and has falsely been implicated in this case. The petitioner no. 2 has no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner no. 2 was disclosed by local people. No incriminating material has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. The said hut does not belong to the petitioner. 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 Tisiauta P.S. Case No. 101 of 2023 offence under the said provision is made out.



8. Learned APP for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the bar of Section 76(2) of the Act applies in this case.

9. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioner, let the above named petitioner no. 2, 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, Hajipur, Vaishali in connection with Tisiauta P.S. Case No. 101 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

10. The application stands allowed.

(Chandra Prakash Singh, J)

Ranjeet/-

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