

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2994 of 2024

Arising Out of PS. Case No.-495 Year-2022 Thana- EKMA District- Saran

1. SONU SINGH SON OF BINAY SINGH RESIDENT OF VILLAGE - BHUILY, P.S. - EKMA, DISTRICT - SARAN
2. SHYAM SUNDAR SINGH @ SUNDAR SINGH SON OF ANUGARH NARAYAN SINGH RESIDENT OF VILLAGE - BHUILY, P.S. - EKMA, DISTRICT - SARAN
3. HARE RAM SINGH SON OF LATE SATENDAR SINGH RESIDENT OF VILLAGE - BHUILY, P.S. - EKMA, DISTRICT - SARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Singh, Adv.

For the Opposite Party/s : Mr.Dilip Kumar No. 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 05-02-2024 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 Ekma P.S. Case No. 495 of 2022 dated 22.12.2022 for the offence/s punishable u/s 30(a), 41(i)(ii) /34 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 80 litres of illicit country made liquor kept in straw was recovered beside the *Palani*.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the conscious possession of



the petitioners. The recovery was made from an open place that is accessible to anyone. The petitioners have no concern with the alleged recovery. The co-accused person disclosed the name of the petitioners. The petitioner no. 1 and 2 have one more criminal antecedent and the petitioner no. 3 has two other criminal antecedents 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 the 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) each with two sureties of the like amount each to the satisfaction of the



learned court concerned, Saran at Chapra in connection with Ekma
P.S. Case No. 495 of 2022, 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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