

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.963 of 2024

Arising Out of PS. Case No.-50 Year-2023 Thana- TAJPUR District- Samastipur

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1. Sobha Devi W/o Pandev Sahni Resident of Village- Chaklalsahi, Police Station- Tajpur(Halai), District- Samastipur
 2. Vinod Sahni Son of Parikshan Sahni Resident of Village- Chaklalsahi, Police Station- Tajpur(Halai), District- Samastipur

... .. 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.Braj Kishore Pd.(App)

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 31-01-2024 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 Tajpur (Halai O.P.) P.S. Case No. 50 of 2023 dated 29.01.2023 registered for the offences punishable u/ss 272, 273 read with section 34 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 5 litres of illicit country made liquor was recovered from the house of the co-accused Pandav Sahni and the petitioner no. 1 (wife of the Pandav Sahni). 15 litres of illicit country made liquor was also recovered behind the house of the petitioner no. 2, Vinod Sahni.



4. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioner no. 1 has no criminal antecedent whereas the petitioner no. 2 has two criminal antecedents as stated in para 3 of the bail petition. The name of the petitioners was transpired in this case during the course of investigation. It is further submitted that 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.

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 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, Samastipur in connection with Tajpur (Halai O.P.) P.S. Case No. 50 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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