

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5672 of 2024

Arising Out of PS. Case No.-498 Year-2023 Thana- MADHAURAH District- Saran

1. Birendra Manjhi son of Bhargu Nandan Manjhi RESIDENT OF VILLAGE- MIRZAPUR, P.S. MARDHOURA DIST- SARAN AT CHAPRA
2. Rinki Kumari @ Pinki Kumari D/o Birendra Manjhi RESIDENT OF VILLAGE- MIRZAPUR, P.S. MARDHOURA DIST- SARAN AT CHAPRA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Avinash Kumar Pandey
For the Opposite Party/s : Mr.Braj Kishore Pd.(App)

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 16-02-2024 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 seek permission to withdraw the present anticipatory bail application on behalf of the petitioner no. 1 because he is arrested during the pendency of the bail application.

3. Permission is accorded.

4. Accordingly, the anticipatory bail application on behalf of petitioner no.1 stands dismissed as withdrawn.

5. Heard learned counsel for the petitioner no.2 and learned Additional Public Prosecutor for the State.



6. So far as regarding petitioner no. 2 is apprehending her arrest in connection with Marhowrah P.S. Case No. 498 of 2023, dated 13.08.2023, for the offences punishable under Sections 30(a)/45 of the Bihar Prohibition and Excise Act, 2018.

7. As per the prosecution case, total 31 litres of country made liquor has been recovered from the house of Birendra Manjhi who fled away due to the hindrance caused by the co-accused Babita Kumari and Rinki Kumari @ Pinki Kumari (petitioner no.2).

8. Learned counsel for the petitioner no.2 has submitted that the petitioner no.2 is innocent and have falsely been implicated in this case. The petitioner no.2 has no criminal antecedent as stated in para 3 of the bail petition. No incriminating material has been recovered from the conscious possession of the petitioner no.2, hence no case is made out against the her. The petitioner no.2 has been made accused in the present case on the basis of suspicion. 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.

9. Learned APP for the State has vehemently opposed the prayer for anticipatory bail of the petitioner no.2 by submitting that the bar of Section 76(2) of the Act applies in this case.

10. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioner no.2, let the above named petitioner no.2, in the event of her 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, Saran at Chapra in connection with Marhowrah P.S. Case No. 498 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

11. The application stands allowed.

(Chandra Prakash Singh, J)

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