

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2112 of 2024

Arising Out of PS. Case No.-977 Year-2022 Thana- PHULWARISHARIF District- Patna

1. MD. FIROZ S/O MD. HANAN MAHROOM @ ABDUL RAHMAN R/O CHAURAH, PS- PHULWARISHARIF, DISTRICT- PATNA
2. BABA MURAD @ JANESHWAR AKHTAR S/O MD. MUNNA HALWAI R/O CHAURAH, PS- PHULWARISHARIF, DISTRICT- PATNA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Aryan Singh

For the Opposite Party/s : Mr.Ramchandra Sahn

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

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

2. The petitioners are apprehending their arrest in connection with Phulwarisharif P.S. Case No. 977 of 2022 dated 11.08.2022 for the offences punishable under Sections 341, 323/34 of the Indian Penal Code and under section 37/30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 720 litres of foreign liquor was recovered from the petitioner's Scooty.

4. 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 in para 3 of the bail petition. No incriminating material has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. The petitioners are not the owner of the said scooty. 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 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.

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 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, Patna in connection with Phulwarisharif P.S. Case No. 977 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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