

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.682 of 2024**

Arising Out of PS. Case No.-257 Year-2021 Thana- ARARIA District- Araria

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1. Jitendra Kumar S/o Late Birju Mandal Resident of Village- Kariho , Baratonl, Ward no 18, P.S. - Supaul, Dist.- Supaul.
  2. Binod Kumar S/o Shiv Shankar Mandal Village Kariho, Baratonl, Ward No. -18, P.S. - Supaul Dist.- Supaul.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Madhav Jha, Adv.  
For the Opposite Party/s : Mr.Nand Kumar, APP

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**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 Araria P.S. Case No. 257 of 2021 dated 20.03.2021 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 103.125 litres of illicit foreign liquor and a mobile phone having two sim were recovered from the car.

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. The petitioners are not named in the F.I.R. The petitioners are not the driver of the said vehicle and the same was not being driven by the petitioners. 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, Araria in connection with Araria P.S. Case No. 257 of 2021, 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)**

Gautam/-

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