

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3050 of 2024

Arising Out of PS. Case No.-259 Year-2023 Thana- MANIGACHI District- Darbhanga

1. Lal Babu Yadav son of Sita Ram Yadav Village- Jalegar Ps- Manigachhi Dist- Darbhanga
2. Lalit Yadav son of Ram Prasad Yadav Village- Jalegar Ps- Manigachhi Dist- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vinay Kumar Mishra, Advocate

For the Opposite Party/s : Mr.Humayou Ahmad Khan, 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. Learned counsel for the petitioners is permitted to file supplementary affidavit with regard to the criminal antecedent.

3. Learned counsel for the petitioners seeks permission to withdraw the present application for the petitioner no. 1 namely, Lal Babu Yadav.

4. Permission is accorded.

5. Accordingly, the present application for the petitioner no. 1 namely, Lal Babu Yadav is dismissed as withdrawn.

6. The petitioner no. 2 is apprehending his arrest in a case in connection with Manigachhi P.S. Case No. 259 of 2023 dated 13.12.2023 for the offence/s punishable u/s 30(a) of the Bihar



Prohibition and Excise Act.

7. As per the prosecution case, total 159.51 litres of illicit foreign liquor was recovered from the field of Lakhan Saw situated near Tolia Pokhar.

8. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The recovery was made from an open place that is accessible to anyone. The petitioner has no concern with the alleged recovery. The name of the petitioner has transpired on secret information. The petitioner no. 2 has three criminal antecedents as stated in para 2 of the supplementary affidavit filed on behalf of the petitioner. Learned counsel has submitted that no case is made out against the petitioner. 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 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 A.P.P. 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.



10. Considering the aforesaid facts and circumstances of the case as well as the material available on record, let the above named petitioner no. 2 namely, Lalit Yadav, in the event of his 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, Darbhanga in connection with Manigachhi P.S. Case No. 259 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

11. The application for the petitioner no. 2 namely, Lalit Yadav stands allowed.

(Chandra Prakash Singh, J)

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