

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9887 of 2024

Arising Out of PS. Case No.-527 Year-2023 Thana- BASANTPUR District- Siwan

1. Tuntun Prasad @ Dhabus @ Krishna Kumar @ Krishna S/O Mintu Prasad Resident Of Village- Lakari Tola Madhopur, P.S. - Bastanpur (Lakari Nabiganj O.P.) Dist.- Siwan
2. Arun Prasad S/O Lakshmi Prasad Resident Of Village- Lakari Tola Madhopur, P.S. - Bastanpur (Lakari Nabiganj O.P.) Dist.- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raghav Prasad, Adv.
For the Opposite Party/s : Mr. Sucheta Yadav, APP.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 23-02-2024 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 Basantpur (Lakari Nabiganj O.P.) P.S. Case No. 527 of 2023 dated 06.10.2023 for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 136.980 litres of illicit liquor was recovered near the pond.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioners. The



recovery was made from an open place that is accessible to anyone. The petitioners have no concern with the alleged recovery. The name of the petitioners and others was disclosed by local people. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioners. 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.

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 material available on record, 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) with two sureties of the like amount
each to the satisfaction of the learned court concerned, Siwan in
connection with Basantpur (Lakari Nabiganj O.P.) P.S. Case No.
527 of 2023, 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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