

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78196 of 2024

Arising Out of PS. Case No.-138 Year-2022 Thana- MOTIHARI MUFASIL District- East
Champaran

-
1. Munnalal Mukhiya S/O Maharaj Mukhiya R/O Village- Hasuwaha, P.S.-
Muffasil, District- East Champaran.
 2. Prabha Devi W/O Munnalal Mukhiya R/O Village- Hasuwaha, P.S.-
Muffasil, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Singh

For the Opposite Party/s : Mr.Mohammed Arif

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 17-02-2025 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in
connection with Muffasil P.S. Case No. 138 of 2022 dated
27.02.2022 for the offences punishable u/ss 30(b), 32 and 41(1)
of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1000 litres of raw
material of liquor was recovered from the bank of the Sikrahana
river.

4. Learned counsel for the petitioners has submitted
that the petitioners are innocent and have falsely been
implicated in this case. Nothing has been recovered from the



conscious possession of the petitioners, hence 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 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. The other co-accused person has already been granted bail by this court *vide* order dated 29.01.2024 passed in Cr. Misc. No. 86176/2023. The petitioners have no criminal antecedent as stated in para 3 of the bail petition.

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, 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 learned Court concerned, East Champaran, Motihari in connection with Muffasil P.S. Case No. 138 of 2022, 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)

atul/-

U		T	
---	--	---	--

