

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79105 of 2024

Arising Out of PS. Case No.-555 Year-2024 Thana- Excise P.S. District- Aurangabad

1. Sonu Kumar Son of Kedar Yadav Resident of Village- Bahadurpurdih, P.S.- Dhibra, Distt.- Aurangabad (Bihar)
2. Rajendra Yadav @ Sukhal Yadav @ Rajendra Kumar Yadav Son of Rampavesh Yadav Resident of Village- Bhaluwahi, P.S.- Dhibra, Distt.- Aurangabad (Bihar)

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Aman Vishal

For the Opposite Party/s : Mr. Umanath Mishra

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 07-02-2025 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 Excise P.S. Case No. 555 of 2024 dated 07.06.2024 for the offence/s punishable u/ss 30(a), 32(3), 41(1), 41(2) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 449.280 litres of illicit country made liquor was recovered from the Scorpio.

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. The petitioners are neither the owner nor the driver of the said vehicle. The petitioners have no concern with the alleged



recovery. The apprehended co-accused disclosed the name of the petitioners. The petitioner no. 1 has one criminal antecedent and the petitioner no. 2 has 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 the 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 the 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) each with two sureties of the like amount each to the satisfaction of the learned court concerned, Aurangabad in connection with Excise P.S. Case No. 555 of 2024, 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)

guddukr/-

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

