

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83297 of 2024

Arising Out of PS. Case No.-302 Year-2024 Thana- ATRI District- Gaya

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1. Sintu Giri @ Sintu Kumar Son of Mahendra Giri R/O -Jagatpur, P.S.- Atri, District- Gaya
 2. Mahendra Giri Son of Musafir Giri R/O -Jagatpur, P.S.- Atri, District- Gaya

... .. Petitioner/s

Versus

The State Of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Syed Asgher Najmi, Adv

For the Opposite Party/s : Mr.Md. Anzarul Haque Sahara, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 21-02-2025 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Atri P.S. Case No. 302/2024 dated 22.08.2024 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act and Sections 25(1B)(a) and 26 of the Arms Act.

3. As per the prosecution case, total 130 litres of illicit country-made liquor, one country-made *katta* and one motorcycle were recovered from the bush near the house of the co-accused, Kaushlaya Devi.

4. Learned counsel for the petitioners has submitted



that the petitioners are innocent and have falsely been implicated in this case. The petitioner no. 1 has no criminal antecedent whereas the petitioner no. 2 has three criminal antecedents as stated in para 3 of the bail petition. It is further submitted that the petitioners have no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. No incriminating article has been recovered from the conscious possession of the petitioners, hence no case is made out. The co-accused person has already been granted regular bail by this court vide order dated 08.10.2024 passed in Cr. Misc. No. 73590 of 2024. 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 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, Gaya in connection with Atri P.S. Case No. 302/2024, subject to conditions as laid down under section 482(2) of the B.N.S.S.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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