

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.88905 of 2024

Arising Out of PS. Case No.-98 Year-2023 Thana- WARISNAGAR District- Samastipur

1. Atmeshwar Kumar S/o Ramashray Rout @ M.R.D. Brahmachari Resident of village- Barah Pathar, P.S.- Samastipur Town, District- Samastipur.
2. Ram Babu Son of Late Maheshwar Ram Resident of village Charo, P.S. Warisnagar, Distt.- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Khushi Awadh, Advocate

For the Opposite Party/s : Mr. Nityanand, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 28-02-2025 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 Warisnagar P.S. Case No. 98 of 2023, dated 30.03.2023 registered for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 6633.360 litres of illicit foreign liquor was recovered from the Pick-up Van and the Truck.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioners are neither the owner nor



the driver of the said vehicle. The petitioners have no concern with the alleged recovery. The petitioner no. 2 has no criminal antecedent while petitioner no. 1 has one criminal antecedent as stated in para 3 of the bail petition. 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.

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 learned court concerned, Samastipur, in connection with Warisnagar P.S. Case No. 98 of 2023, 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)

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