

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46720 of 2019

Arising Out of PS. Case No.-6 Year-2018 Thana- GOPALPUR District- Gopalganj

JUBAI ANSARI @ JUBAI RAY Son of Vadhu Ray @ Vadhu Ansari Resident
of Village - Matihiniya, Salehpur, P.S.- Bishambharpur, District- Gopalganj
... .. Petitioner

Versus

The State of Bihar Opposite Party

Appearance :

For the Petitioner/s : Mr.Lokesh Kumar Singh
For the Opposite Party/s : Mr.Awadhesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 29-07-2019 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application, under Section 438 of the Code of Criminal procedure, 1973, for grant of anticipatory bail arises out of Gopalpur P.S. Case No. 06 of 2018, disclosing offence under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of Bihar Prohibition and Excise Act, 2016.

Learned counsel appearing on behalf of the petitioner has drawn my attention to an order, dated 03.04.2018 passed in Cr. Misc. No. 19174 of 2018, to submit that similarly circumstanced co-accused has been allowed anticipatory bail.

On perusal of the said order, dated 03.04.2018, I notice that the provisions, under Section 76 of the Bihar Prohibition and Excise Act, 2016, which puts bar on application, under Section 438 of the Cr.P.C., was not brought to the notice



of the Court.

In view of the Full Bench decision of this Court in case of ***Ram Vinay Yadav Vs. The State of Bihar***, reported in **2019(2) PLJR 1089 (F.B.)**, and the provisions under Section 76(2) of the Bihar Prohibition and Excise Act, 2016, this application for anticipatory bail cannot be maintained.

This application is accordingly dismissed as not maintainable.

However, the petitioner is directed to surrender before the Court below within four weeks from today and seek regular bail, if so advised. If he does so, his application for regular bail shall be considered on its own merit without being prejudiced by rejection of the present application for grant of anticipatory bail by this Court.

(Chakradhari Sharan Singh, J)

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