

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5908 of 2020

Arising Out of PS. Case No.-531 Year-2019 Thana- CHAPRA MUFFASIL District- Saran

WAKIL RAI Son of Late Anarsi Ray Resident of Village- Sadha, P.S.- Chapra
Muffasil, District- Chapra.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Singh

For the Opposite Party/s : Mr.Satyadeo Singh Yadav

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 24-06-2020 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

This application for grant of anticipatory bail arises out of Chapra (M) P.S. Case No. 531 of 2019, disclosing offence under Sections 272 and 273/34 of the Indian Penal Code and Sections 30(a) and 41 of Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner has submitted that since his name has surfaced in course of investigation only on the basis of confessional statement of the co-accused, no offence under the provisions of the Excise Act can be said to be made out against him. He has accordingly submitted that embargo under Section 76(2) of the Bihar Prohibition and Excise Act, 2016, shall have no application and the petitioner's case for grant of anticipatory bail may be entertained by this Court.



I do not find any merit in his submission. Even if the petitioner has been implicated on the basis of confessional statement of the co-accused cannot be said that for the said reason no offence is made out against the petitioner so as to overcome the embargo under Section 76(2) of the Bihar Prohibition and Excise Act, 2016.

This application, in my opinion, is not maintainable, 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 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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