

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6993 of 2023

Arising Out of PS. Case No.-716 Year-2022 Thana- HAJIPUR SADAR District- Vaishali

LAKSHMAN SINGH @ LAKSHMAN KUMAR S/O NATHO SINGH
Resident of Village- Sahdullahpur, P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar, Advocate

For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 10-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

The Petitioner is apprehending his arrest in a case registered for the offences punishable u/s 468, 467, 420 and 414 of the Indian Penal Code and 30(a), 36 and 41(1) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 3897.72 litres of country made liquor was recovered from the truck and the Bolero vehicles and the apprehended person disclosed the name of the petitioner.



Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. The name of the petitioner has transpired in the case on the basis of disclosure of the co-accused Ram Parvesh Kumar. The petitioner has also accused in three criminal cases which are related to excise as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. 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 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.

Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the bar of Section 76(2) of the Act applies in this case.

Considering the aforesaid facts and circumstances of the case as well as the material available on record, let the above



named petitioner, in the event of his 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) with two sureties of the like amount each to the satisfaction of the learned court concerned, Vaishali at Hajipur in connection with Hajipur Sadar P.S. Case No. 716 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with one conditions:-

1. The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

The application stands allowed.

(Chandra Prakash Singh, J)

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