

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10188 of 2023

Arising Out of PS. Case No.-420 Year-2021 Thana- MAHUA District- Vaishali

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Rahul Singh @ Rahul Kumar Singh S/O Ratnesh Singh @ Ratnesh Kumar
Singh Resident Of Village- Madhopur Nizma, P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Manoj Kumar Upadhyay, Advocate
For the Opposite Party/s : Mr.Asha Kumari, A.P.P

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

ORAL ORDER

2 25-02-2023 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 30(a), 32(ii), 34(ii),

38(ii) and 41(i) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 8812.590 litres of

foreign liquor was recovered from the 10 wheeler truck bearing

registration No. UP 21CN 4807.

Learned counsel for the petitioner has submitted that

the petitioner has falsely been implicated in this case. The



petitioner is accused in seven other criminal cases which are related to Excise Act as stated in para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioner. The said truck was parked in a field of Sahpur Chakumar High School. The petitioner has no concern with the alleged recovery. The petitioner is neither the driver nor the owner of the said truck. The other co-accused person has already been granted bail by the Co-ordinate Bench *vide* order dated 02.12.2022 passed in Cr. Misc. No. 63921 of 2022. 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.

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 nature of allegation against the petitioner, 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 Mahua P.S. Case No. 420 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with following 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 prosecution will be at liberty to move for cancellation of his bail bond .

2. If the petitioner is found involved in similar nature of offence in future, the prosecution will be at liberty to move for cancellation of his bail bonds.

(Chandra Prakash Singh, J)

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