

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 34206 of 2023**

Arising Out of PS. Case No.-171 Year-2022 Thana- LAUKAHI District- Madhubani

SHIVRAT YADAV @ SHIV KUMAR YADAV SON OF DAYALAL YADAV
R/O VILLAGE- KACHUA MAIBI, P.S.- LAKHNAUR, DISTRICT-
MADHUBANI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Ratanakar Jha, Advocate

For the Opposite Party/s : Mr Bishweshwar Ram, APP

CORAM: HONOURABLE MR JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 24-06-2023

Heard learned counsel for the petitioner and learned Additional Public Prosecutor (for brevity, **APP**) appearing for the State of Bihar.

The petitioner is apprehending his arrest in connection with GR No 555 of 2022 arising out of Laukahi Police Station (for brevity, **PS**) Case No 171 of 2022 dated 09.07.2022 registered for the offences punishable under Sections 272, 273/34 of Indian Penal Code and Section 30 (a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, 423 litres of illicit Nepali liquor was recovered from the premises of Raja Salhesh Temple.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is



further submitted that the petitioner has two antecedents, as stated at paragraph 3 of the bail petition. No incriminating article has been recovered from the possession of the petitioner, hence no case is made out. The recovery is made from premises of the temple. Learned counsel has relied on the judgment of Full Bench of of this Court in the case of ***Ram Vinay Yadav -Versus- 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 the Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the First Information Report, no offence under the said provision is made out.

Learned APP appearing for the State of Bihar 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 his furnishing bonds of Rs



20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of Special Judge, Excise Act, Jhanjharpur in GR No 436 of 2022 arising out of Laukahi PS Case No 171 of 2022 dated 09.07.2022, subject to all conditions as laid down under Section 438 (2) of Criminal Procedure Code.

(Chandra Prakash Singh, J)

M.E.H./-

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