

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33897 of 2023

Arising Out of PS. Case No.-101 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Madhepura

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AKHILESH YADAV @ TUNTUN YADAV SON OF LATE MISHRI LAL
YADAV R/O-TAMOUT PARSA, WARD NO. 12 P.S.-MURLIGANJ,
DISTT.-MADHEPURA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Surya Narayan Yadav

For the Opposite Party/s : Mrs.Sharda Kumari

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

ORAL ORDER

2 24-06-2023 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 in

connection with Madhepura Excise P.S. Case No. 101 of 2022

dated 22.3.2022 registered for the offences punishable under

sections 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 23 litres of country

made liquor was recovered from the possession of co-accused

Reshma Devi who disclosed the name of the petitioner who fled



away from the place of occurrence.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing incriminating material has been recovered from the conscious possession of the petitioner. Hence no case is made out. The name of the petitioner was disclosed by the co-accused Reshma Devi. The petitioner is also accused in two other criminal cases as stated at para 3 of the bail petition. 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, 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 learned Court concerned, Madhepura in connection with Madhepura Excise P.S. Case No. 101 of 2022, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

Ajay Singh/-

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