

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33744 of 2023

Arising Out of PS. Case No.-199 Year-2022 Thana- BHAGWAN BAZAR District- Saran

LALU RAY, Son of Ganesh Ray, Resident of Village- Gandhi Masjid, Nai Bazar, PS.- Bhagwan Bazar, District- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh, Advocate

For the Opposite Party/s : Mr.Pradeep Narain Kumar, APP

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 connection with Bhagwan Bazar P.S. Case No. 199 of 2022 dated 17.04.2022 registered for the offences punishable u/ss 413 and 414 of the Indian Penal Code and u/s 30 (a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 174 litres of bear was recovered from a Bolero car of the petitioner.

Learned counsel for the petitioner has submitted that



the petitioner has falsely been implicated in this case. The petitioner is neither the driver nor the owner of the said vehicle. Nothing has been recovered from the conscious possession of the petitioner hence, no case is made out against the petitioner. The petitioner has no criminal antecedent 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 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 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, Saran at Chapra in connection with Bhagwan Bazar P.S. Case No. 199 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)

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