

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 34320 of 2023**

Arising Out of PS. Case No.-518 Year-2019 Thana- BAHERA District- Darbhanga

BISHWANATH YADAV @ RAJESH YADAV S/O DEV NARAYAN
YADAV R/O Village-Kodhali, P.S-Biraul, District-Darbhangha

... .. 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 Syed Mojibur Rahman, 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 Bahera Police Station (for brevity, **PS**) Case No 518 of 2019 dated 25.12.2019 registered for the offences punishable under Sections 30 (a), 32 (iii) and 42 (i) of the Bihar Prohibition and Excise Act.

As per the prosecution case, 3791.72 litres of illicit liquor was recovered from the four vehicles.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is not named in the First Information Report. His



name has sprung up in the confessional statement of the co-accused, Laxman Nayak. It is further submitted that the petitioner has one antecedent, as stated at paragraph 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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 Court No II, Darbhanga in Bahera PS Case No 518 of 2019 dated 25.11.2019, subject to all conditions as laid down under Section 438 (2) of Criminal Procedure Code.

(Chandra Prakash Singh, J)

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