

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 34201 of 2023

Arising Out of PS. Case No.-346 Year-2022 Thana- MAHESI District- East Champaran

RAJAN KUMAR @ RAJAN KUMAR YADAV S/O LATE BABULAL
YADAV @ BABUAL RAY R/O Village- Magrahi, P.S- Mehshi, Distt.- East
Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Abhishek Kumar, Advocate

For the Opposite Party/s : Mr Satyendra Narayan Singh, 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 Mehshi Police Station (for brevity, **PS**) Case No 346 of 2022
dated 04.12.2022 registered for the offences punishable under
Sections 30 (a), 32 (i) (ii), 36, 41 (i) of the Bihar Prohibition and
Excise Act.

As per the prosecution case, 1193.25 litres of illicit
foreign liquor was recovered from the vehicles. The co-accused
persons who were apprehended on the spot, disclosed the name
of the petitioner as one of their associates.

Learned counsel for the petitioner has submitted that



the petitioner has falsely been implicated in this case. The petitioner bears clean 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. The petitioner is not the owner of the said vehicles. The name of the petitioner was disclosed by the apprehended persons who have falsely implicated the name of the petitioner. The co-accused, namely, Sohan Mukhiya and Jitendra Kumar have already been granted anticipatory bail by the co-ordinate Bench of this Court by order dated 25.04.2023 passed in Cr Misc No 9608 of 2023. 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 Exclusive Special Excise Court No I, Motihari, East Champaran in Mehsi PS Case No 346 of 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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