

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56920 of 2023

Arising Out of PS. Case No.-381 Year-2022 Thana- LADANIA District- Madhubani

Chhote Lal Paswan @ Chhout Lal Paswan Son of Musharu Paswan Resident
of Village- Patharahi, PS- Ladaniya, Distt- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Prakash, Adv.

For the Opposite Party/s : Mr. Nitya Nand Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 30-08-2023 Heard Mr. Ravi Prakash, learned counsel for the
petitioner and learned APP for the State.

2. The petitioner apprehends his arrest in connection with Ladaniya P.S. Case No. 381 of 2022 registered for the offences punishable under Sections 272 and 273/34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. The police on an information with regard to paddling of illicit wine conducted raid and, in course of search, 32 liters of country made illicit liquor was recovered from the bush near the pond. The villagers disclosed the name of six accused persons including the name of the petitioner, who are said to be involved in the present crime.

4. Learned counsel for the petitioner submits that from



the FIR/seizure list, it is evident that alleged recovery has been made from the bush near the pond, which is accessible to all. He further submits that as the petitioner was carrying three criminal antecedent over his head, his name has been implicated in this case also, which shows the high-handedness of the police. He next submits that the petitioner has no concern with the alleged recovery of illicit liquor, that apart other infirmities in the preparation of the seizure list. He lastly submits that the petitioner undertakes that he will fully cooperate in the investigation/trial.

5. On the other hand, learned counsel for the State vehemently opposes the bail application and submits that the petitioner bears three criminal antecedent of identical nature and moreover the present anticipatory bail application is not maintainable in view of Section 76(2) of the Bihar Prohibition and Excise Act, 2016.

6. Needless to observe that so far the issue regarding maintainability of anticipatory bail under the Bihar Prohibition and Excise Act is concerned, the conundrum has already been dispelled by the Full Bench of this Court in the case of **Ram Vinay Yadav vs. The State of Bihar** reported in **2019(2) PLJR 1089**.



7. Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery has been made from the bush near the pond, which is an open place and easily accessible to anyone, coupled with the fair antecedent of the petitioner and also in view of the observation made by the Full Bench of this Court in **Ram Vinay Yadav (supra)**, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II-cum-Special Judge, Excise Act, Madhubani in connection with Ladaniya P.S. Case No. 381 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C, with further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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