

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59514 of 2023

Arising Out of PS. Case No.-50 Year-2023 Thana- BAHERI District- Darbhanga

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AMIT @ AMIT SAH @ AMIT KUMAR SON OF SHIVJEE SAH
VILLAGE- JAHANGIRPUR, PS- KHANPUR, DIST- SAMASTIPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vinay Kumar Mishra, Advocate

For the Opposite Party/s : Mr.Umanath Mishra, APP

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

ORAL ORDER

3 13-12-2023 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.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

3. The Petitioner is apprehending his arrest in connection with Baheri P.S. Case No. 50 of 2023 dated 27.02.2023 for the offences punishable under Sections 120B, 420, 467, 468, 471 of the IPC and Sections 30(a), 32 and 41 of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 5999.52 litres of illicit liquor has been recovered from truck and pickup van.

5. Learned counsel for the petitioner has submitted



that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated at para 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 and the said vehicles was not being driven by the petitioner. The other co-accused person has already been granted bail by the Co-ordinate Bench *vide* order dated 07.11.2023 passed in Cr. Misc. No. 65519 of 2023. 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.

6. 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.

7. 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 furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Darbhanga in connection with Baheri P.S. Case No. 50 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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