

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62548 of 2023

Arising Out of PS. Case No.-69 Year-2023 Thana- HAYAGHAT District- Darbhanga

Chandan Kumar Singh @ Chandan Singh S/O Bhola Shankar Singh R/O
Village- Hathauri, P.S- Hayaghat, Distt.- Darbhanga- 847301, Bihar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ravi Kumar, Advocate Mrs. Sunita Kumari, Advocate
For the Opposite Party/s :		Mr.Mohammed Arif, APP

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

ORAL ORDER

3 31-10-2023 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 Hayaghat P.S. Case No. 69 of 2023 dated 30.05.2023 registered for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 1587.420 litres of illicit liquor was recovered from the bus and the arrested person disclosed the name of the petitioner who fled away.

5. Learned counsel for the petitioner has submitted



that the petitioner has falsely been implicated in this case. The petitioner is accused in six other criminal cases as stated in 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. 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, 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 Hayaghat P.S. Case No. 69 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition:-

(i). The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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