

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67525 of 2023

Arising Out of PS. Case No.-87 Year-2020 Thana- Excise P.S. District- Patna

ACHHUTA RAY S/o RAMADEO RAY R/o vill - Street Road Lane ward no.
04, Saidpur, P.S. - Rahimpur, Distt. - Saran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Sinha, Adv.

For the Opposite Party/s : Mr. Manoj Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 01-11-2023 Heard Mr. Ranjan Kumar Sinha, learned counsel
appearing on behalf of the petitioner and Mr. Manoj Kumar,
learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with P.R.E. P.S. Case No. 87 of 2020, registered for the offences
punishable under Sections 30(a), 56(b), 32(1), 32(3), 41(1)
41(2) of the Bihar Prohibition and Excise (Amendment) Act,
2018.

3. In course of vehicle search, the police tried to
intercept the person who was coming on a motorcycle.
However, noticing the police party, the person who was riding
the motorcycle, succeeded in fleeing away leaving his
motorcycle on the spot. On search, 22.5 litres Indian made
foreign liquor was recovered.



4. It is submitted on behalf of the petitioner that the petitioner has been made accused in the present crime in the capacity of he being the owner of the motorcycle in question. He further submits that in fact on the alleged date of occurrence, the motorcycle was taken away by one of the co-villager and he was not knowing the fact that the said person is involved in committing illegal activities. He next submits that the petitioner is a man of fair antecedent and he undertakes that he will fully cooperate in the investigation or in the proceeding of the court and whenever the motorcycle in question would be required to be produced, the same shall be produced immediately.

5. On the other hand, learned counsel for the State opposes the bail application and submits that though the petitioner succeeded in fleeing way but his motorcycle was seized at the place of occurrence where the entire recovery has been made. He further submits that anticipatory bail application is not maintainable in view of Section 76(2) of the Bihar Prohibition and Excise Act.

6. So far as the issue regarding maintainability of anticipatory bail under the Bihar Prohibition and Excise Act is concerned, the same 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 taking note of the fact that the petitioner has been made accused in the present case only in the capacity of he being the owner of the motorcycle, that apart no other incriminating material has been recovered from the whereabouts of the petitioner apart from other infirmities in the search and seizure, let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge(Excise), Patna in connection with P.R.E. P.S. Case No. 87 of 2020, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

Anjani/-

U		T	
---	--	---	--

