

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69078 of 2023

Arising Out of PS. Case No.-466 Year-2023 Thana- MAHUA District- Vaishali

RAHUL KUMAR @ RAHUL SINGH @ RAHUL KUMAR SINGH Son of
Ratnesh Singh @ Ratnesh Kumar Singh R/o vill - Madhopur Nizma, P.S. -
Mahua, Distt. - Vaishali

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh, Advocate

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

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

ORAL ORDER

2 08-11-2023 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 a case in
connection with Mahua P.S. Case No. 466 of 2023 dated
17.07.2023 for the offence/s punishable u/ss 420, 467 and 468
read with section 34 of the IPC and sections 30(a), 32(ii) (iii),
36 and 41 (i)(ii) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 4996.44 litres of
foreign liquor was recovered from a truck.

5. Learned counsel for the petitioner has submitted



that the petitioner has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The said vehicle was not being driven by the petitioner at the time of alleged occurrence. The petitioner has no concern with the alleged recovery. The petitioner is neither the driver nor the owner of the said truck. The name of the petitioner has been disclosed by local police personnel. The petitioner has 13 other criminal cases and he is on bail in 12 criminal cases as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. 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 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 material available on record, 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, Hajipur, Vaishali in connection with Mahua P.S. Case No. 466 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition/s:-

(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.

(ii) If the petitioner is found involved in any other criminal case in future, his bail bond is liable to be cancelled.

8. The application stands allowed.

(Chandra Prakash Singh, J)

guddukr/-

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

