

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75473 of 2023

Arising Out of PS. Case No.-726 Year-2022 Thana- NAUBATPUR District- Patna

CHOTU SINGH SON OF VINAY SINGH RESIDENT OF VILLAGE -
MATKURIYA, P.S. - BANK MORE, DISTRICT - DHANBAD
(JHARKHAND)

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satya Veer

For the Opposite Party/s : Mr.Nagendra Prasad

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

ORAL ORDER

2 11-12-2023 Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Noubatpur P.S. Case No. 726 of 2022 dated 15.08.2023 for the offences punishable u/ss 414 read with Section 34 of the Indian Penal Code and u/ss 30(a), 32(i) (ii), 36, 41(i) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 351 litres of illicit liquor was recovered from two vehicles and 5 persons were also apprehended. It is further alleged that the petitioner is engaged in illegal business of liquor.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The



name of the petitioner was disclosed by the co-accused, Chandan Kumar Singh. The petitioner is neither the owner nor the driver of the said vehicles. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioner, hence 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 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.

5. 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.

6. 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, Danapur (Patna) in connection with Noubatpur P.S. Case No. 726 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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