

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75352 of 2023

Arising Out of PS. Case No.-523 Year-2018 Thana- SHERGHATI District- Gaya

SANJEET KUMAR SON OF BASUDEO YADAV @ BASDEV YADAV
RESIDENT OF VILLAGE - ACHHYWAN, P.S. - DOBHI, DISTRICT -
GAYA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vinod Kumar, Advocate
For the Opposite Party/s : Mr. Khurshid Anwar, APP

**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 Sherghati P.S. Case No. 523 of 2018 dated 15.09.2018 for the offences punishable u/s 414 of the Indian Penal Code and u/ss 30(a) and 30(d) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 10 litres of country made mahua liquor and 20 kg of *mahua* flowers were recovered from a motorcycle and the two co-accused persons were apprehended on the spot.

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



petitioner is the owner of the said motorcycle and the said motorcycle was not being driven by the petitioner at the time of the alleged recovery. 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, Gaya in connection with Sherghati P.S. Case No. 523 of 2018, 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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