

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74882 of 2023

Arising Out of PS. Case No.-183 Year-2020 Thana- SINGHWARA District- Darbhanga

Monu Mishra @ Mon Mishra Son Of Raj Kishore Mishra Resident Of
Village- Dhanaur, PS- Katra, Distt- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Advocate
For the Opposite Party/s : Mr. Ram Sumiran Rai, A.P.P.

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

ORAL ORDER

2 05-12-2023 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 Singhwara P.S Case No. 183 of 2020 dated
02.10.2020 for the offences punishable u/s 30(a) of the
Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 1894.320
litres of illicit 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. It is further submitted that petitioner is not the owner of the said truck and the said truck was not being driven by the petitioner at the time of the alleged recovery. The co-accused has already been granted bail by the Co-ordinate Bench of this Court vide order dated 25.06.2021 passed in Cr. Misc No. 17091 of 2021. The petitioner has two criminal antecedents as stated at 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 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, Darbhanga in connection with Singhwara P.S. Case No. 183 of 2020, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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