

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73733 of 2022

Arising Out of PS. Case No.-43 Year-2022 Thana- BALIGAON District- Vaishali

GAJENDRA SINGH Son of Bhagat Singh R/o Quarter No. 1651, Sector 9 D,
Street No. 38, Bokaro Steel City, P.S- Bokaro Steel City, Dist- Bokaro
(Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha

For the Opposite Party/s : Mr.Suresh Prasad Singh

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

ORAL ORDER

2 20-01-2023 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.

Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State through video-

conferencing.

The Petitioner is apprehending his arrest in a case

registered for the offences punishable u/s 420, 465, 467, 468 and

471 of the Indian Penal Code and Section 30(a), 32(ii), 36 and

41(i) of the Bihar Prohibition and Excise Act.

As per the prosecution case, on seeing the police, the

driver of the truck started fleeing away but was apprehended by

the police who also disclosed his name as Shravan Singh and on



said truck total 4493.50 litres of country-made foreign liquor was recovered. The apprehended driver also disclosed about the car bearing No. DL2AL 0941, that had helped him to reach Muzaffarpur. Later on, the car was intercepted and three persons were apprehended and they disclosed their names as Sajid, Anil and Umer Mohmad and they disclosed that they all are involved in the trade of illegal liquor by forming a syndicate.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The name of the petitioner has surfaced during the course of investigation. The petitioner is accused in five other criminal cases which are related to similar nature of offence as stated at para 3 of the bail petition. Nothing has been recovered from the possession of 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.



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.

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, Vaishali at Hajipur in connection with Baligaon P.S. Case No. 43 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further conditions:-

1. One of the bailors shall be a close relative of the petitioner who shall give genealogy as to how he is related to the petitioner.

2. 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 prosecution will be at liberty to move for cancellation of his bail bonds.



3. If the petitioner is found involved in similar nature of offence in future, his bail bond is liable to be cancelled.

The application stands allowed.

(Chandra Prakash Singh, J)

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