

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76133 of 2023

Arising Out of PS. Case No.-180 Year-2021 Thana- BAHERA District- Darbhanga

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Ajit Kumar @ Ajeet Kumar S/O Anand Lal Mahto R/O- Ward No. 09, Madhu Tola,. Ps.Khanpur, Dist. Samastipur

... .. Petitioner/s

Versus

The State Of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjit Kumar Yadav, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 13-12-2023 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 a case in connection with Bahera P.S. Case No. 180 of 2021 dated 29.08.2021 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 3809.16 litres of illicit liquor was recovered from the 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. Learned counsel has further submitted that when he was in custody since 11.02.2021 to 04.01.2022 in connection with Bibhutipur P.S. Case No. 245 of 2020 due to land dispute meanwhile four trucks including the present one transferred in the name of the petitioner. The said truck was not being driven by the petitioner at the time of the alleged occurrence. The petitioner has no concern with the alleged recovery. The petitioner has two other 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, Darbhanga in connection with Bahera P.S. Case No. 180 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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