

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71428 of 2022

Arising Out of PS. Case No.-457 Year-2022 Thana- MASHRAK District- Saran

MANISH KUMAR, Son of Kishor Bhagat, R/o- Dumrasan, P.S.- Mashrak,
District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Tiwary, Advocate.

For the Opposite Party/s : Mr.Ram Anurag Singh, SPP.

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

ORAL ORDER

2 13-01-2023 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 Special Public Prosecutor for the State through video conferencing.

The petitioners is apprehending his arrest in connection with Mashrakh P. S. Case No. 457 of 2022 registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, on 27.09.2022 the police, on a secret information, intercepted a white coloured car and apprehended the driver. Total 183.60 litres of country-



made foreign liquor was recovered from the said vehicle.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It has further been submitted that no incriminating material has been recovered from the possession of the petitioner. He is not the owner of the said vehicle. It has further been submitted that the name of the petitioner has sprung up on the basis of disclosure made by the co-accused, namely, Ganga Gautam. The petitioner is accused in three more criminal cases, which are related to the Excise Act, as stated in paragraph 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.

Learned S.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, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Saran at Chapra in connection with Mashrakh P. S. Case No. 457 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

The application stands allowed.

(Chandra Prakash Singh, J)

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