

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74674 of 2023

Arising Out of PS. Case No.-157 Year-2023 Thana- MEHSI District- East Champaran

Upendra Kumar Singh @ Upendra Singh S/O Ram Kishor Singh @ Raj
Kishor Singh Village- Rampurwa, Ps. Mehshi, Dist. East Champaran

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate

For the Opposite Party/s : Mr. Pushpa Sinha, 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 Mehshi P.S Case No. 157 of 2023 dated
25.05.2023 for the offences punishable u/ss 341, 342, 323, 504,
506 read with 34 of the Indian Penal Code and 30(a) and 37 of
the Bihar Prohibition and Excise Act.

4. As per the prosecution case, on 25.05.2023 at about
01:45, the petitioner and the co-accused Bhanu Singh went to
the informant's house on motorcycle and abused the informant.



Thereafter, the co-accused Bhanu Singh was apprehended by villagers and on search a iron knife and 1.260 litres of English liquor were recovered from the dicky of the motorcycle bearing Registration No. BR-06-AH-8204.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has three criminal antecedent 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, East Champaran at Motihari, Bihar in connection with Mehshi P.S. Case No. 157 of 2023, 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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