

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76113 of 2023

Arising Out of PS. Case No.-333 Year-2022 Thana- CHIRAIYA District- East Champaran

Vikash Kumar Son Of Dhani Mahto Resident Of Village - Mirpur, P.S. -
Chiraiya, District - East Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manjeet Kumar Mishra, Adv.

For the Opposite Party/s : Ms. Rita Verma, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 29-11-2023 Heard Mr. Manjeet Kumar Mishra, learned counsel
for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest in connection with Chiraiya P.S. Case No. 333 of 2022 registered for the offences punishable under Sections 272 and 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition & Excise Amendment Act.

3. The police on a secret information raided the house of the petitioner and from where 15 liters (Chulai) country made liquor was recovered.

4. Learned counsel for the petitioner submits that the alleged recovery has been made from a joint family house where several persons reside. However, on account of some altercation, which took place between the family members of



the petitioner with the police personnel, the name of the petitioner has been implicated in this case. He next submits that there are various other infirmities in the search and seizure, inasmuch as the seizure list does not suggest that the copy of the same has been handed over to any of the family member of the petitioner. He lastly submits that the petitioner is a man of fair antecedent and he undertakes that he will fully cooperate in the investigation or in the proceeding of the Court.

5. On the other hand, learned counsel for the State vehemently opposes the bail application and submits that the present anticipatory bail application is not maintainable in view of Section 76(2) of the Bihar Prohibition and Excise Act, 2016.

6. Needless to observe that so far the issue regarding maintainability of anticipatory bail under the Bihar Prohibition and Excise Act is concerned, the conundrum has already been dispelled by the full Bench of this Court in the case of **Ram Vinay Yadav vs. The State of Bihar** reported in **2019(2) PLJR 1089**.

7. Regard being had to the submissions made on behalf of the parties and considering the alleged recovery which has been made from the joint family house of the petitioner, coupled with his fair antecedent and the infirmity in the seizure



list and also in view of the observation made by the full Bench of this Court in **Ram Vinay Yadav (supra)**, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No.1, East Champaran at Motihari in connection with Chiraiya P.S. Case No. 333 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C, with further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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