

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74433 of 2022

Arising Out of PS. Case No.-332 Year-2022 Thana- PAROO District- Muzaffarpur

SANDEEP SINGH @ SANDEEP KUMAR SINGH Son of Late Phulendra
Singh R/V- Fanda, P.S- Paroo, Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Md. Fahimuddin, APP.

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

ORAL ORDER

2 03-02-2023 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 connection
with Paroo P. S. Case No. 332 of 2022 registered for the
offences punishable under Sections 420, 467, 468, 471 and
120B of the Indian Penal Code and Sections 30(a), 31, 32 and
41(a) of the Bihar Prohibition and Excise Act and Sections 25(1-
b)a, 26 and 35 of the Arms Act.

As per the prosecution case, the police, on a secret
information, intercepted a four wheeler vehicle bearing
registration no. BR-05-PB-1080 and apprehended two persons,
who were sitting in the said vehicle. On being asked, they



disclosed their names as Tinku Kumar and Ayush Kumaron. On search, four live cartridges and Rs. 10,000/- was recovered from the possession of the Tinku Kumar. It is further alleged that on the disclosure made by the co-accused Tinku Kumar, the police intercepted an another truck bearing registration no. UP-70BT-5637. On search, total 2141.46 litres of illicit foreign liquor and two mobile phones from the cabin of truck were recovered. It is also alleged that total 35.280 litres of illicit foreign liquor was recovered from the Mhindra KUV 100.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is evident from the F.I.R. that the petitioner was not present at the spot. Nothing has been recovered from the conscious possession of the petitioner. The name of the petitioner has transpired on the confessional statement of the co-accused Tinku Kumar. The petitioner has neither any concerned with the seized vehicle nor with the alleged recovery. The petitioner is found involved in four 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.

Learned APP 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 her 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, Muzaffarpur in connection with Paroo P. S. Case No. 332 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with the condition that :-

The petitioner is directed to remain physically present before the learned Court below on each an every date, failing which on two consecutive dates without reasonable cause, the prosecution will be at liberty to move for cancellation of his bail



bond.

The application stands allowed.

(Chandra Prakash Singh, J)

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