

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.963 of 2023

Arising Out of PS. Case No.-191 Year-2022 Thana- BANKA District- Banka

MD. SAHIL S/o Md. Mahfooz Hussain R/o Village- Bari Dhaka, P.O.- Dhaka
More, P.S.- Banka, Distt- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate.

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

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

ORAL ORDER

2 10-02-2023 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.

The petitioner is apprehending his arrest in connection
with Banka P. S. Case No. 191 of 2022 registered for the
offences punishable under Sections 30(a) and 32 (ii) of the
Bihar Prohibition and Excise Act.

As per the prosecution case, total 60 litres country
made liquor was recovered from a sack, which was kept in a
seized motorcycle.

Learned counsel for the petitioner has submitted that



the petitioner has falsely been implicated in this case. Nothing has been recovered from the possession of the petitioner. The petitioner is the registered owner of the said motorcycle. The said motorcycle was not driven by the petitioner. The petitioner was not present at the spot but being owner of the said motorcycle, he has been dragged in this case. The petitioner has got no criminal antecedent 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 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, Banka in connection with Banka P. S. Case No. 191 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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