

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6531 of 2024

Arising Out of PS. Case No.-98 Year-2023 Thana- ISMAILPUR District- Bhagalpur

Putush Kumar S/O Hari Mohan Mandal R/O- Dumariya, Ps. Narayanpur,
Distt. Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Adv.

For the Opposite Party/s : Mr. Manoj Kumar, APP.

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

ORAL ORDER

2 17-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in connection with Ismilepur P.S. Case No. 98 of 2023 dated 13.08.2023 for the offence punishable u/s 32(1)(2), 38(1)(2), 41(1)(2)(i) of the Bihar Prohibition and Excise Act, 2016.

3. As per the prosecution case, one Scorpio, in which one person, Rupesh Mandal in intoxicated condition was found, who disclosed that he along with his villagers including the petitioner were engaged in the trade of illicit liquor.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the



conscious possession of the petitioner. The name of the petitioner has transpired in the confessional statement of the co-accused Rupesh Mandal. The petitioner has one criminal antecedent of similar nature 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.

5. 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.

6. Considering the aforesaid facts and circumstances of the case as well as the material available on record, 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,
Bhagalpur in connection with Ismilepur P.S. Case No. 98 of
2023, subject to conditions as laid down under section 438(2) of
the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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