

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.6508 of 2024**

Arising Out of PS. Case No.-141 Year-2023 Thana- SUGAULI District- East Champaran

Harishankar Bhagat @ Bhola Bhagat S/O Yadolal Bhagat Village- Semara  
Khas, Ps. Turkauliya, Dist. East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

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

For the Opposite Party/s : Mr. Shailendra Kumar Singh, 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 Sugauli P.S. Case No. 141 of 2023 dated 15.04.2023 for the offence punishable u/s 30(a), 34, 37, 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, the informant got secret information that some people of the village suddenly became sick in suspicious circumstances and some of them died during the course of treatment and their dead bodies were cremated in haste by their relatives. On interrogation, it was found that Sudish Ram, Indrasan Mahto, Chulhai Paswan, Ganesh Ram and Govind Thakur became sick on consuming



some poisonous substance and died during course of treatment. He further came to know that Buniyad Paswan and Amardeo Mahto are being treated secretly somewhere. Thereafter, the FIR has been registered against the unknown persons.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has not committed any offence as alleged. The petitioner has falsely been implicated in this case. The petitioner is not named in the FIR and no incriminating material has been recovered from the conscious possession of the petitioner. The name of the petitioner has transpired on mere suspicion. The petitioner has one 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.



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, Motihari in connection with Sugauli P.S. Case No. 141 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition.

7. The application stands allowed.

**(Chandra Prakash Singh, J)**

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