

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5123 of 2024

Arising Out of PS. Case No.-466 Year-2022 Thana- BAHERA District- Darbhanga

Shambhu Paswan Son of Ram Gulam Paswan Resident Of Village- Mahdei
Dih, Ps- Bahera, Distt- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Baidyanath Prasad, Advocate

For the Opposite Party/s : Mr. Sangeeta Sharma, APP

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

ORAL ORDER

2 15-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Bahera P.S. Case No. 466 of 2022 dated 16.10.2022 of the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act 2018.

3. As per the prosecution case, total 12 litres of illicit country made liquor was recovered from the *bank of the pond*.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. As per the seizure list, two aluminum utensils and two small pipe has been recovered. The said



recovery has been made from an open place which is accessible to anyone. The name of the petitioner has transpired only on the basis of the suspicion. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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 reported in 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 nature of allegation against the petitioner, 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.



7. This application stands allowed.

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