

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6113 of 2024

Arising Out of PS. Case No.-185 Year-2021 Thana- LAKHISARAI District- Lakhisarai

Sanjay Mandal @ Sanjay Kumar Son Of Karu Mandal R/O-Govind Bigha,
Shyam Tola, P.S.-Lakhisarai, Distt.-Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Parmanand Pd. Nr. Sahi, Adv.

For the Opposite Party/s : Mr.Veena Kumari Jaiswal, 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 connection with Lakhisarai P.S. Case No. 185 of 2021 dated 23.03.2021 for the offences punishable u/ss 147, 149, 341, 323, 307, 379, 353, 504 and 506 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 30 litres of illicit country made liquor was recovered from the house of the co-accused, Mahesh Mandal. Thereafter, the petitioner and the co-accused persons obstructed the police personnel and caused hindrance in discharging of their official duty.

4. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. The petitioner is simply a member of mob who did not cause any hindrance in discharge of duty of police. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner has transpired in this case only on the basis of secret information. It is further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from the co-accused person. Nothing 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. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Lakhisarai in connection with Lakhisarai P.S. Case No. 185 of 2021, 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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