

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6767 of 2024

Arising Out of PS. Case No.-742 Year-2022 Thana- SIRDALA District- Nawada

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Mahesh @ Madhu Manjhi S/O Karu Manjhi Village- Bahuara, Ps.- Sirdala,
Dist. Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

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

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**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 Sirdala P.S. Case No. 742 of 2022 dated
23.12.2022 for the offence punishable u/s 30(a) of the Bihar
Prohibition and Excise Act.

3. As per the prosecution case, total 1600 liters of
mahua solution along with certain articles and a motorcycle
were recovered from Bahuara Forest Dam.

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 petitioner is neither



the owner nor the driver of the said motorcycle. The recovery was made from an open place that is accessible to anyone. The petitioner has no concern with the alleged recovery. The name of the petitioner has disclosed by the local Chaukidar. The similarly situated co-accused Upendra Rajbanshi has been granted anticipatory bail vide order dated 10.05.2023 passed in Cr. Misc. No. 17810 of 2023 by a Co-ordinate bench of this Court. The petitioner has 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.

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, Nawada in connection with Sirdala P.S. Case No. 742 of 2022, 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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