

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7498 of 2024

Arising Out of PS. Case No.-10 Year-2009 Thana- Excise P.S. District- East Champaran

Nagendra Sahani S/O Late Indradeo Sahni Village- Mushwa, Ps. Sugauli,
Dist. East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Parmanand Prasad, APP.

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

ORAL ORDER

2 20-02-2024 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 Excise P.S. Case No. 10 of 2009 dated 01.08.2009 for the offences punishable u/s 47(a) of the Bihar Prohibition and Excise (Amendment) Act, 2016.

3. As per the prosecution case, total 105 litres of country made liquor and 2400 kg kinwan wash were recovered from the place of occurrence which was kept under the earth.

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 recovery was made



from an open place that is accessible to anyone. The petitioner has no concern with the alleged recovery or the place of occurrence. The name of the petitioner has dragged in this case due to enmity. 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, East
Champaran, Motihari in connection with Excise P.S. Case No.
10 of 2009, 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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