

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11253 of 2024

Arising Out of PS. Case No.-202 Year-2023 Thana- SIDHWALIYA District- Gopalganj

Mantu Mahato @ Chanchu Kumar @ Chunnu Mahato Son of Chhathu Mahto
Resident of Village-Bucheya Mathiyan, Ward No.09, P.S.-Sidhwalia, Distt.-
Gopalgaj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Radha Mohan Singh, Adv.

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

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

ORAL ORDER

2 27-02-2024 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 Sidhwaliya P.S. Case No. 202 of 2023 dated 26.06.2023 for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 8.460 litres of illicit foreign liquor was recovered from the motorcycle.

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 said



motorcycle was not being driven by the petitioner at the time of the alleged occurrence. Local Chowkidar disclosed the name of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has **ten** other criminal antecedents of similar nature as stated in para 3 of the bail petition in which the petitioner is on bail. 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, Gopalganj in connection with Sidhwaliya P.S. Case No. 202 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition/s:-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to cancelled.

(ii) If the petitioner is found involved in similar nature of offence in future, the prosecution will be at liberty to move for cancellation of his bail bond

7. The application stands allowed.

(Chandra Prakash Singh, J)

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