

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11267 of 2024

Arising Out of PS. Case No.-300 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- East Champaran

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Ashok Mahto @ Ashok Chaudhary S/o Vishwanath Mahto R/o vill -
Jhakhya, P.S. - Banjariya, Distt. - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhannjay Kumar, Adv.
For the Opposite Party/s : Mr. Umanath Mishra, APP.

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**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 Excise P.S. Case No. 300 of 2021 dated
04.08.2021 for the offence punishable u/s 30(a), 47(a) of the
Bihar Prohibition and Excise (Amendment) Act, 2016.

3. As per the prosecution case, total 36 litres of illicit
foreign liquor was recovered from the two different
motorcycles.

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 the



owner of one of the seized motorcycles. The said motorcycle was not being driven by the petitioner at the time of the alleged occurrence. The petitioner has been made accused in the present case merely on the basis of secret information. The petitioner has no concern with the alleged recovery. The petitioner has four other criminal antecedents of similar nature 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 in connection with Excise Case Case No. 300 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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