

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7375 of 2024

Arising Out of PS. Case No.-57 Year-2023 Thana- KHUSRUPUR District- Patna

Lakshman Kumar @ Jasuman Kumar S/O- Nandu Singh @ Nand Kishore
Singh R/O- Village- Haibatpur, P.S.- Khushurupur, Dist.- Patna

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Akbar Ali, 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 Khushrupur P.S. Case No. 57 of 2023 dated 12.02.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise (Amendment) Act.

3. As per the prosecution case, total 60 litres of illicit country made liquor was recovered from the gunny bag which was thrown by the petitioner and 1200 kg soaked jawa mahua was also recovered from the place of occurrence.

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 said bag was not thrown by the petitioner. The recovery was made from an open place that is accessible to anyone. The petitioner has no concern with the alleged recovery. The petitioner was identified by local people. The petitioner has three 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, Patna City in connection with Khushrupur P.S. Case No. 57 of 2023, 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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