

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9997 of 2024

Arising Out of PS. Case No.-250 Year-2022 Thana- IMAMGANJ District- Gaya

Pintu Bharti @ Pintu Bhuiyan Son Of Late Somar Bhuiyan R/O-Bela, P.S.-
IMAMGANJ, Distt.-GAYA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Shyam Bihari Singh, APP.

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

ORAL ORDER

2 23-02-2024 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 Imamganj P.S. Case No. 250 of 2022 dated 25.12.2022 for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act, 2018.

3. As per the prosecution case, 9 litres of illicit mahua liquor was recovered near the house of Rupa Devi and 8 liters of illicit country made liquor was recovered from another place.

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 transpired on the basis of secret information. The petitioner has one 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, Gaya in connection with Imamganj P.S. Case No. 250 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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