

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8196 of 2024

Arising Out of PS. Case No.-93 Year-2023 Thana- ROH District- Nawada

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Upendra Rajbanshi S/O MUNNA @ MUNESHWAR RAJBANSHI
VILLAGE- BHUPESH NAGAR, PS. ROH, DIST. NAWADA.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar

For the Opposite Party/s : Mr. Ramchandra Sahni

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

ORAL ORDER

2 21-02-2024 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, if any, within

a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in

connection with Roh P.S. Case No. 93 of 2023, dated

05.03.2023 for the offences punishable under Section 30(a)(d)

of the Bihar Prohibition and Excise Act, 2016.

4. As per the prosecution case, 280 litres of illicit

country made liquor along with ten thousand litres of fermented

mahua were found at the place of occurrence.

5. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal antecedent as stated in para 3 of the bail petition in which he is on bail. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. Similarly co-accused namely Bholi Rajbanshi has been granted anticipatory bail by a coordinate Bench of this Court vide order dated 07.11.2023 passed in Cr. Misc. No. 71303/2023. 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 reported in 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.

6. Learned APP 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.

7. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioner, 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, Nawada in connection with Roh P.S. Case No. 93 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

Ranjeet/-

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