

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9462 of 2024

Arising Out of PS. Case No.-498 Year-2023 Thana- OBRA District- Aurangabad

SHIVAM KUMAR @ SHIVJANM KUMAR SON OF RAMPRAVESH
SINGH R/O-MASTALICHAK, P.S.-OBRA, DISTT.-AURANGABAD

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Singh

For the Opposite Party/s : Mr.Asha Kumari

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

ORAL ORDER

2 22-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Obra P.S. Case No. 498 of 2023, dated 26.12.2023 for the offences punishable under Sections 30(a) / 30(c)/ 30(d)/36 of the Bihar Prohibition and Excise Act, 2018.

3. As per prosecution case, total 800 ml. of desi liquor was recovered from the hut of co-accused Manoj Yadav and Sanoj Yadav and also packing machine, seal machine used for packing of bottles and desi liquor wrapper and 200 empty bottles were also recovered.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. The petitioner has three criminal antecedents as stated in para 3 of the bail petition in which he is on bail. The petitioner was neither apprehended on the spot nor any incriminating material has been recovered from the conscious possession of the petitioner, hence 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 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.

5. 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.

6. 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, Aurangabad in connection with Obra P.S. Case No. 498 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)

Ranjeet/-

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