

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8860 of 2024

Arising Out of PS. Case No.-419 Year-2023 Thana- OBRA District- Aurangabad

Shiv Pujan Paswan @ Pujan Paswan S/O Late Nanhu Paswan R/O Village-
Mahadeva, Tejpura, P.S- Obra Distt.- Aurangabad.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rahul Kumar Singh, Adv.

For the Opposite Party/s : Mr. Narsingh Tanti, APP.

**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 a case in
connection with Obra P.S. Case No. 419 of 2023 dated
07.10.2023 for the offence/s punishable u/s 30(a) of the Bihar
Prohibition and Excise Act.

3. As per the prosecution case, total 130 litres of illicit
country made liquor and 5 kg mahua flowers were recovered
from the house of the petitioner.

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. As per the FIR, the



recovery has been made from the house of the petitioner but as per the seizure list, the recovery has been made from the village Mahadeva which creates doubt upon the prosecution case. The recovery was made from an open place that is accessible to anyone. The petitioner has no concern with the alleged recovery. The name of the petitioner has transpired merely on suspicion. The petitioner has no 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, Aurangabad in connection with Obra P.S. Case No. 419 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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