

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9328 of 2024

Arising Out of PS. Case No.-813 Year-2023 Thana- Excise P.S. District- Aurangabad

Chandan Kumar Son of Nepali Chaudhary R/o vill - Bhuiyan Tola, P.S. -
Barun, Distt. - Aurangabad

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukul Kumari

For the Opposite Party/s : Mr.Suresh Prasad Singh

**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 Excise P.S. Case No. 813 of 2023, G.R. No. 1446 of 2023, dated 23.10.2023 for the offences punishable under Sections 30(a), 32(i), 32(3) of the Bihar Prohibition and Excise Amendment Act, 2018 and section 41(1), 41(2) of the Bihar Prohibition and Excise Amendment Act, 2016.

3. As per the prosecution case, total 35 litres of desi mahua was recovered from the motorcycle and from the possession of co-accused.

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



this case. The petitioner has two criminal antecedents of similar nature as stated in para 3 of the bail petition in both cases he is on bail. The name of the petitioner has transpired on the basis of confessional statement of co-accused Dharmendra Chaudhary. No 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 Excise P.S. Case No. 813 of 2023, G.R. No. 1446 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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