

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10317 of 2024

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

MANOJ YADAV S/o Sahdeo Yadav Resident of Village-Mastalichak, P.S.-
Obra, District-Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Anuj Kumar Shrivastava, APP

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

ORAL ORDER

3 27-02-2024 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 u/ss 30(a), 30(c), 30(d) and 36 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 800 ml of illicit liquor and other articles were recovered near the hut of the petitioner and the co-accused person, Saroj Yadav.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has seven criminal antecedents as stated in para 3 of the bail petition. It is further submitted that the



petitioner has no concern with the alleged recovery rather the recovery has been made from the hut which belongs to Saroj Yadav. The petitioner has been made accused in this case only because he is the full brother of the co-accused, Saroj Yadav. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. 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 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 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 with further condition.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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