

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2791 of 2024

Arising Out of PS. Case No.-690 Year-2023 Thana- MAHUA District- Vaishali

Vinay Kumar son of Chandradev Ray Resident of village Mahua Singh Rai
PS Mahua, Dist.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 8501 of 2024

Arising Out of PS. Case No.-690 Year-2023 Thana- MAHUA District- Vaishali

ANIL KUMAR Son of Chandra Dev Ray Resident of Village-Mahua Singh
Rai, P.S.-Mahua, District-Vaishali.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 2791 of 2024)
For the Petitioner/s : Mr.Pratima Kumari
For the Opposite Party/s : Mr.Abhay Kumar Roy
(In CRIMINAL MISCELLANEOUS No. 8501 of 2024)
For the Petitioner/s : Mr.Pratima Kumari
For the Opposite Party/s : Mr.Nand Kumar

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

ORAL ORDER

2 05-02-2024 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a case
in connection with Mahuwa P.S. Case No. 690/2023 dated
23.10.2023 registered for the offence punishable u/ss 272 and 273
read with 34 and Section 30(a) of the Bihar Prohibition and Excise



Act.

3. As per the prosecution case, 267.12 litres of illicit liquor was recovered from the house of the co-accused Moti Rai and 8.64 litres of illicit was recovered from the motorcycle.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. The petitioner (Anil Kumar) is the owner of the motorcycle but the said motorcycle was not being driven by the petitioner at the time of alleged occurrence. Nothing has been recovered from the conscious possession of the petitioners hence, no case is made out against the petitioners. 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 petitioners 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 petitioners, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned court concerned, Vaishali at Hajipur in connection with Mahuwa P.S. Case No. 690/2023 subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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