

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12855 of 2024

Arising Out of PS. Case No.-140 Year-2017 Thana- BUXAR INDUSTRIAL District- Buxar

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MUKESH GOND SON OF KAMESHWAR GOND @ KAMESHWAR R/O-
KANSPUR, DIYEAR, P.S.-BALIYA (T), DISTT.-BALIYA (U.P)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Brijmohan Das, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

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

ORAL ORDER

2 29-02-2024 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 Buxar (Ind) P.S. Case no. 140 of 2017 dated 01.08.2017 for the offence punishable u/s 272, 273 and 34 of the Indian Penal Code and Section 30(a), 41(1) of the Bihar Prohibition and Excise Act, 2016.

3. As per the prosecution case, total 519.840 litres of foreign liquor was recovered from the Bolero and XYLO vehicles. The petitioner is owner of the said XYLO vehicle.

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. The petitioner has been implicated in this case only because he is the owner of the seized Xylo vehicle which was given to driver for commercial purpose. The petitioner has no concern with the alleged recovery. 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, Buxar in connection with Buxar (Ind) P.S. Case No. 140 of 2017, 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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