

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11461 of 2024

Arising Out of PS. Case No.-137 Year-2022 Thana- KASMA District- Aurangabad

Vintesh Singh @ Vintesh Kumar Son of Sattan Singh @ Shatrughna Singh
Resident of Village- Gejana, P.S.- Imamganj, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Parmeshwar Vishwakarma, Adv.

For the Opposite Party/s : Ms. Anita Kumari, APP.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 28-02-2024 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 Kasma P.S. Case No. 137 of 2022 dated 11.10.2022 for the offence punishable u/s 30(a), 32(ii)(iii), 41(i) (ii) of the Bihar Prohibition and Excise Act, 2018.

3. As per the prosecution case, total 17.28 litres of illicit foreign liquor was recovered from the motorcycle and 114.315 liters of illicit foreign liquor was recovered from the car.

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 is neither the owner nor the driver of the said vehicles. The said vehicle was not being driven by the petitioner at the time of the alleged occurrence. The apprehended co-accused person disclosed the name of the petitioner. The co-accused, Upendra Yadav has been granted anticipatory bail vide order dated 03.04.2023 passed in Cr. Misc. No. 4274 of 2023 by a Co-ordinate Bench of this Court. The petitioner has no concern with the alleged recovery. The petitioner has two other criminal antecedents 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 Kasma P.S. Case No. 137 of 2022, 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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