

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14379 of 2024

Arising Out of PS. Case No.-373 Year-2019 Thana- PATNA CITY CHOWK District- Patna

Anil Rai, Son of Late Khuddi Rai, R/O- Mohalla Kila Ghat, PS- Chowk, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajeev Kumar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 07-03-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his/her arrest in a case in connection with Chowk P.S. Case No. 373 of 2019 dated 03.11.2019 for the offence/s punishable u/ss 272 and 273 read with section 34 of the IPC and section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 78.75 litres of illicit foreign liquor, 33.84 litres of DSP Tetra pack foreign liquor and 150 litres of illicit country made liquor were recovered from the Tempo.

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 vehicle. The apprehended co-accused person disclosed the name of the petitioner. 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 the record, let the



above named petitioner, in the event of his/her 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, Patna City in connection with Chowk P.S. Case No. 373 of 2019, 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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