

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14725 of 2024

Arising Out of PS. Case No.-294 Year-2017 Thana- MALSALAMI District- Patna

Bhonu Rai @ Bhonu Ray S/O Vishundhari Ray R/O Muhalla- Kowakhop,
Kilaghat, P.S- Chowk, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar

For the Opposite Party/s : Mr.Syed Ehteshamuddin

**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 arrest in connection with Spl. Case No. 7532 of 2017 arising out of Malsalami P.S. Case No. 294/2017 dated 29.10.2017 for the offences punishable u/ss 272 and 273 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 25.6 litres of illicit *mahuwa* liquor was recovered from the bank of the Ganga river.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in



para 3 of the bail petition. The recovery is from an open place which is accessible to anyone. No incriminating article 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,
Patna City in connection with Spl. Case No. 7532 of 2017
arising out of Malsalami P.S. Case No. 294/2017, 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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