

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19065 of 2024

Arising Out of PS. Case No.-11 Year-2020 Thana- LADANIA District- Madhubani

Bishun Mukhiya S/o Suraj Mukhiya R/o vill - Kavilasa, post - Sidhapkala,
ward no. 05, P.S. - Ladaniya, Distt. - Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Md Soban Asghar, Adv.

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh, APP

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

ORAL ORDER

2 22-03-2024 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 G.R. No. 125 of 2020 arising out of Ladania P.S. Case No. 11 of 2020 dated 23. 01.2020 for the offence/s punishable u/ss 272, 273 and 414 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 180 litres of illicit Nepali country made liquor was recovered from the two motorcycles and a 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 the owner of one of the seized vehicles. The said vehicle was not being driven by the petitioner at the time of the alleged occurrence. The petitioner has no concern with the alleged recovery. The petitioner has one more 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, Madhubani in connection with G.R. No. 125 of 2020 arising out of Ladania P.S. Case No. 11 of 2020 , 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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