

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15499 of 2024

Arising Out of PS. Case No.-741 Year-2023 Thana- MALSALAMI District- Patna

ANIL RAI @ ANIL RAY SON OF KHUDI RAI R/O-PATTHAR GHAT, P.S.-
MALSALAMI, DISTT.-PATNA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Prasad

For the Opposite Party/s : Mr.Brajendra Nath Pandey

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

ORAL ORDER

2 11-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Malsalami P.S. Case No. 741 of 2023, dated 23.10.2023 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 100 litres of country made liquor was recovered from the sack of the co-accused persons and a motorcycle was also recovered near Marufganj mandi Adra ghat.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has five criminal antecedents in which



all cases, he is on bail. The petitioner has been made accused in this case because he is the owner of the said motorcycle but the motorcycle was not being driven by the petitioner at the time of alleged recovery. No incriminating article has been recovered from the conscious possession of the petitioner, hence 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 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 APP 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 Malsalami P.S. Case No. 741 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure with further condition:

- (i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, his bail bonds are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

Ranjeet/-

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