

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15625 of 2024

Arising Out of PS. Case No.-253 Year-2021 Thana- BABUBARHI District- Madhubani

Bedanand Choudhary Son Of Palat Choudhary Resident Of Village - Choura
Mahrail, P.S. - Jhanjharpur, District - Madhubani

... .. Petitioner/s

Versus

The state of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Manish Kumar No 13, Advocate Mr. Rohit Kumar, Advocate
For the Opposite Party/s :		Mr.Akbar Ali, APP

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

ORAL ORDER

2 12-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Babu Barahi P.S. Case No. 253/2021 dated 29.10.2021 for the offences punishable u/ss 272 and 273 read with 34 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 98.4 litres of illicit liquor was recovered from the Scorpio vehicle.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has two criminal antecedents and he is on bail in both the aforesaid cases as stated in para 3 of the bail



petition. The petitioner is neither the owner nor the driver of the said vehicle. The name of the petitioner has transpired in the present case on the basis of disclosure made by the co-accused Shyam Babu. 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, Madhubani in connection with Babu Barahi P.S. Case No. 253/2021, 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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