

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23845 of 2024

Arising Out of PS. Case No.-493 Year-2023 Thana- VAISHALI District- Vaishali

Santosh Paswan @ Santosh Kumar S/o Banai Paswan @ Ganai Paswan @
Vanai Pasawan @ Vinay Paswan R/o Vill - Subhai, Suhai, P.S. - Vaishali,
Dist. - Vaishali at Hajipur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sachin Kumar

For the Opposite Party/s : Mr.Pawan Kumar Chaurasia

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

ORAL ORDER

2 09-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Vaishali P.S. Case No. 493 of 2023 dated 11.11.2023 for the offences punishable under Sections 420, 467, 468, 471, 120B of the Indian Penal Code and u/ss 30(a), 36(i), 41(1) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 804.645 litres of illicit country made foreign liquor was recovered from the four different vehicles.

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



is on bail as stated in para 2 of the supplementary affidavit filed by the petitioner. The apprehended co-accused person disclosed the name of the petitioner due to previous enmity. The petitioner is not the owner of the any seized vehicles. Learned counsel further submitted that the recovery is made from the open place. Nothing 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, Vaishali at Hajipur in connection with Vaishali P.S. Case No. 493 of 2023, 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)

Ranjeet/-

U		T	
---	--	---	--

