

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16329 of 2024

Arising Out of PS. Case No.-271 Year-2023 Thana- LAKHNAUR District- Madhubani

Mohan Singh @ Mohan Kumar Singh S/o Nand Kumar Singh R/o Village -
Daiyakharwar Gangapur, P.S. - Lakhnaur, Dist. - Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sumit Kumar Jha, Adv.

For the Opposite Party/s : Mr.Ashok Kumar Singh, APP

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

ORAL ORDER

2 13-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Lakhnaur P.S. Case No. 271 of 2023 dated 19.12.2023 corresponding to G.R. No. 911 of 2023 for the offences punishable u/ss 272, 273, 147, 148, 149, 189, 224, 225, 323, 324, 332, 333, 353, 427, 504, 506 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, on secret information, the co-accused persons, Ram Singh and Kanhaiya Singh kept illegal liquor in his land under paddy straw. When police reached the place of occurrence then the co-accused persons started to flee away but they were apprehended by the police



personnel. On search, 108 litres of illicit Nepali liquor was recovered, in the meantime, the accused persons along with the petitioner came with weapons and got the co-accused, Ram Singh and Kanhaiya Singh freed. They also caused hindrance in discharge official duties of the police personnel.

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 name of the petitioner was disclosed by local Chowkidar. There is general and omnibus allegation against the petitioner. It is further submitted that the petitioner has no concern with the alleged recovery. Nothing 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 material available on the record, 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, Jhanjharpur, Madhubani in connection with Lakhnaur P.S. Case No. 271 of 2023 corresponding to G.R. No. 911 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)

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