

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18658 of 2024

Arising Out of PS. Case No.-250 Year-2023 Thana- SAKRI District- Madhubani

Vikash Kumar Chaudhary @ Vikash Chaudhary Son of late Pramod Chaudhary Resident of vill.-Purani Bazar, P.S.-Sakari, Distt.-Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gagandeo Yadav, Advocate Mr.Ravi Prakash, Advocate
For the Opposite Party/s :		Mr.Khurshid Anwar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 19-03-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Sakri P.S. Case No. 250/2023 dated 03.12.2023 for the offences punishable u/ss 272 and 273 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 27 litres of illicit liquor was recovered from the bush kept in a plastic bag behind the house of the petitioner.

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 recovery was from an open place



which is accessible to anyone. 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 G.R. No. 1746/2023 arising out of Sakri P.S. Case No. 250/2023, 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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