

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20883 of 2024

Arising Out of PS. Case No.-807 Year-2023 Thana- DEHRI TOWN District- Rohtas

Kundan Kumar @ Mirchi S/o Rajkumar Soni R/o Mohalla - Paschimi Mohan
Bigha, Balvatika Gali, Ward No - 16, P.S. - Dehri (Town), Dist. - Rohtas at
Sasaram

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jai Prakash Singh, Adv.

For the Opposite Party/s : Mr.Md. Matloob Rab, APP

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

ORAL ORDER

2 02-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his/her arrest in a case in connection with Dehri (Town) P.S. Case No. 807 of 2023 dated 02.10.2023 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 46.800 litres of illicit country made liquor was recovered from the drainage behind the house of Manoj Kumar.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The recovery was made



from an open place that is accessible to anyone. Local people disclosed the name of the petitioner. The petitioner has no concern with the alleged recovery. Similarly situated co-accused has already been granted anticipatory bail by this court vide order dated 14.03.2024 passed in Cr. Misc. No. 17240 of 2024. The petitioner has five other criminal antecedents as stated in para 3 of the bail petition. Learned counsel has submitted that 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 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/her 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, Rohtas at Sasaram in connection with Dehri (Town) P.S. Case No. 807 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition/s:-

1. 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, the bail bond of the petitioner is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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