

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18564 of 2024

Arising Out of PS. Case No.-25 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Darbhanga

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CHHOTU YADAV @ DEV NARAYAN YADAV Son of Sundeshwar Yadav
Resident of Village of Village-Behatwara (Koyla Sthan), Police Station-Keoti,
District-Darbhangha.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nilendu Kumar Choudhary

For the Opposite Party/s : Mr.Rajendra Prasad Nat

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**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 P.R. Case No. 25 of 2021, for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. As per the prosecution case, total 95.76 litres of foreign liquor hidden in straw, was recovered behind the house of co-accused Chandan Yadav.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating article has been recovered from the



conscious possession of the petitioner, hence no case is made out against the petitioner. The petitioner has seven criminal antecedents as stated in para 3 of the bail petition in which all cases he is on bail. Similarly situated co-accused person has been granted anticipatory bail by a coordinate Bench of this Court vide order dated 29.04.2022 passed in Cr. Misc. No. 69681 of 2021. 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, Darbhanga in connection with P.R. Case No. 25 of 2021, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure with the following condition:-

- (i) 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, his bail bonds are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

Ranjeet/-

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