

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22980 of 2024

Arising Out of PS. Case No.-168 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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UPENDRA BHAGAT SON OF GORAKH BHAGAT RESIDENT OF
VILLAGE - PIRDAMADIYA, POLICE STATION - MALSALAMI,
DISTRICT - PATNA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Jay Ram Prasad
For the Opposite Party/s : Mr.Shyam Kumar Singh

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

ORAL ORDER

2 05-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with P.R. Alamganj Excise P.S. Case No. 168/2019 dated 25.08.2019 for the offences punishable under Sections 30(a)/41(1)/41(2) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 100 litres of illicit country made liquor was recovered from the possession of co-accused (Munna Choudhary) & Shivpujan Kumar while sitting in the tempo.

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 surfaced in this case because he is the registered owner of the seized tempo but the same was not being driven by the petitioner at the time of alleged recovery. 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, Patna in connection with P.R. Alamganj Excise P.S. Case No. 168/2019, 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/-

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