

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20512 of 2024

Arising Out of PS. Case No.-59 Year-2024 Thana- DIGHA District- Patna

Vikash Kumar S/O- Mahendra Rai R/O- Mohallah- Lane Besides Alpana
Cinema, P.S.- Digha, Dist.- Patna (BIHAR)

... .. Petitioner/s

Versus

The State Of Bihar, Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhay Kumar Pandey
For the Opposite Party/s : Mr.Tapeshwar Sharma

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

ORAL ORDER

2 01-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Digha P.S. Case No. 59/2024 dated 01.02.2024 for the offences punishable u/ss 341, 323, 353, 354A and 504 read with 34 of the Indian Penal Code and Section 37 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, on 31.01.2024, the informant has alleged that during duty two intoxicated boys were creating ruckus. On being asked, they started abusing and assaulting the informant and tried to snatch her rifle. In the meantime, constable Lovely Kumari and Shashi Kumar came and saved her, during that course one of the boys fled away



while other was apprehended who disclosed his name as Kundan Kumar and the name of his accomplice as Vikash Kumar. Further, on breath analyzer test of the apprehended person, an alcohol level of 50.8 mg/100 ml in the body was found.

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. 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, Patna in connection with Digha P.S. Case No. 59/2024, 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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