

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19606 of 2024

Arising Out of PS. Case No.-364 Year-2023 Thana- BAHERA District- Darbhanga

Sudhir Kumar Jha @ Natwar Jha S/o Vishwambhar Jha RESIDENT OF
VILLAGE MAHINAM POLICE STATION BAHERA DISTRICT
DARBHANGA

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nilendu Kumar Choudhary

For the Opposite Party/s : Mr.Shahabuddin Azeem @ S. Azeem

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

ORAL ORDER

2 28-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bahera P.S. Case No. 364 of 2023, dated 09.09.2023 for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Act, 2018.

3. As per prosecution case, total 3211.470 litres of illicit foreign liquor was recovered from a truck.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and have falsely been implicated in this case. The name of the petitioner was disclosed by local Chowkidar. The petitioner has one criminal antecedent in which he is on bail as stated in para 3 of the bail petition. The



petitioner is not the owner of the seized truck. No incriminating material 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, Darbhanga in connection with Bahera P.S. Case No. 364 of 2023, 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)

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