

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19884 of 2024

Arising Out of PS. Case No.-244 Year-2022 Thana- TEGHRHA District- Begusarai

Mukesh Kumar @ Golu S/o Ram Prakash Mahto R/o Village - Kharakh
Bibhutipur, P.S. - Bibhutipur, Dist. - Samastipur

... .. Petitioner/s

Versus

The State Of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Sarita Kumari

For the Opposite Party/s : Mr. Ram Priya Sharan Singh

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 Teghra P.S. Case No. 244 of 2022, dated 26.08.2022, for the offences punishable under Sections 414, 420, 467, 468, 471, 120(B) of the Indian Penal Code and u/ss 30(a), 32(i)(ii), 41(i) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 530.28 litres of illicit foreign liquor has been recovered from a motorcycle.

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 has



transpired in this case on the basis of confessional statement of the apprehended co-accused person. The petitioner is not the owner of the seized vehicle. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. Similarly situated co-accused person has been granted anticipatory bail by a coordinate bench of this Court vide order dated 02.12.2022 passed in Cr. Misc. No. 61160 of 2022. 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, Begusarai in connection with Teghra P.S. Case No. 244 of 2022 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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