

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19650 of 2024

Arising Out of PS. Case No.-41 Year-2023 Thana- BITHAN District- Samastipur

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Ganesh Yadav @ Ganesh Kumar Yadav SON OF RAJ KUMAR YADAV
RESIDENT OF VILLAGE- PARKOLIYA MAVTOLIYA (LERJHA GHAT),
PS- LERJHA GHAT, DISTT- SAMASTIPUR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sarbottam Kumar Sarkar

For the Opposite Party/s : Mr.Gauri Shankar Gupta

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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 Bithan P.S. Case No. 41 of 2023, dated 10.04.2023 for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Act, 2022 (Amended).

3. As per prosecution case, total 186.84 litres of illicit foreign liquor was recovered from a maize field and a Pick up Van.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has four criminal antecedents out of which in two cases he is on bail as stated in para 3 of the bail



petition. Learned counsel further submitted that the recovery is made from the open place. The petitioner is not the owner of the said Pick up Van. 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, Samastipur in connection with Bithan P.S. Case No. 41 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)

Ranjeet/-

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