

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22670 of 2024

Arising Out of PS. Case No.-216 Year-2023 Thana- SARAI District- Vaishali

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Ram Prabesh Sahu S/o Janmanjay Sahu RESIDENT OF VILLAGE
-BASAHPUR, POST -POGARA, POLICE STATION - SILLI, DISTRICT
- RANCHI (JHARKHAND)

... .. Petitioner/s

Versus

The State Of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Gajendra Kumar Singh, Adv.

For the Opposite Party/s : Mr.Ashok Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

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

2. The Petitioner is apprehending his arrest in connection with Sarai P.S. Case No. 216 of 2023 dated 25.08.2023 for the offences punishable u/s 420, 467, 468, 471 and 120B of the IPC and Sections 30(a), 32(2)(3), 36, 41(i)(ii) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 264 litres of illicit foreign liquor has been recovered from two vehicles.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated at 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. The petitioner is the owner of one of the said vehicles but the same was not being driven by the him at the time of the alleged occurrence. 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, Vaishali at Hajipur in connection with Sarai P.S. Case No. 216 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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