

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22617 of 2024

Arising Out of PS. Case No.-223 Year-2019 Thana- DIDARGANJ District- Patna

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BADKU @ DRIVER BADKA @ BAKIL KUMAR SON OF LAKSHMAN
RAY RESIDENT OF VILLAGE / MOHALLA - DIDARGANJ, P.S. -
DIDARGANJ, DISTRICT - PATNA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Anirudh Kumar

For the Opposite Party/s : Mr.Asha Kumari

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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 Didarganj Case No. 223 of 2019, dated 21.07.2019 for the offences punishable under Sections 30(a), 36, 41(1) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 250 litres of illicit country made liquor was recovered from the tempo.

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 was transpired on the basis of confessional statement of the



apprehended co-accused person. The petitioner is not the owner of the seized tempo. Nothing 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, Patna City, Patna in connection with Didarganj Case
No. 223 of 2019, 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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