

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22659 of 2024

Arising Out of PS. Case No.-62 Year-2023 Thana- MADHWAPUR District- Madhubani

Saroj Kumar @ Saroj Kumar Mukhiya Son of Ramapravesh Mukhiya
Resident of village choraut Ps Pupari District Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Jha, Adv.

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

**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/her arrest in a case in connection with Madhwapur P.S. Case No. 62 of 2023, Corresponding to G.R. No. 1007 of 2023 dated 27.06.2023 for the offence/s punishable u/ss 272, 273 and 414 read with section 34 of the IPC, 25(1-b)a, 26 and 35 of the Arms Act and section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 107.7 litres of illicit Nepali Saufi liquor was recovered from the motorcycle and one country made Pistol and one live cartridges were recovered from the possession of the co-accused Sunil Kumar.

4. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The petitioner is neither the owner nor the driver of the said vehicle. The apprehended co-accused person disclosed the name of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that 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 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 material available on the record, let the above named petitioner, in the event of his/her 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, Madhubani in connection with Madhwapur P.S. Case No. 62 of 2023, Corresponding to G.R. No. 1007 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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