

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22163 of 2024

Arising Out of PS. Case No.-11 Year-2024 Thana- SALAIYA District- Aurangabad

Surendra Bhuiyan Son of Late Jamidar Bhuiyan @ Jimedar Bhuiyan Resident
of Village- Bariawa, P.S.- Salaiya, District- Aurangabad (Bihar)

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Aman Vishal, Adv.

For the Opposite Party/s : Mr.Arun Kumar, 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 arrest in
connection with Salaiya P.S. Case No. 11 of 2024 dated
17.02.2024 for the offences punishable u/s 30(c) of the Bihar
Prohibition and Excise Act.

3. As per the prosecution case, total 3 Kg. fermented
mahua in 5 litres of plastic container, 50 litres of blue colour
empty plastic gallon and liquor making apparatus were
recovered from the Chalo Pahar.

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 merely on suspicion. It is further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. 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 material available on the record, 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, Aurangabad (Bihar) in connection with Salaiya P.S. Case No. 11 of 2024, 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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