

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25577 of 2024

Arising Out of PS. Case No.-323 Year-2023 Thana- KATRA District- Muzaffarpur

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Mohan Baitha @ Mohan Kumar Son of Tapeswar Baitha Resident of
Village- Tahwara, P.S.- Katra, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Indira Kumari, Adv
For the Opposite Party/s : Mr. Ramesh Chandra, APP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 18-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Katra P.S. Case No. 323 of 2023 dated 30.11.2023 of the offences punishable u/s 272, 273/34 of the IPC and Sections 30(a) of the Bihar Prohibition and Excise Act 2016.

3. As per the prosecution case, total 245.520 litres of illicit foreign liquor was recovered from the garden.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal case as stated in para 3 of the bail petition. It is submitted that the petitioner is not the



owner of the said garden. The name of the petitioner was disclosed by villagers. The recovery has been made from an open place which is accessible to anyone. No incriminating article 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 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, Muzaffarpur, in connection with Katra P.S. Case No. 323 of 2023 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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