

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29532 of 2024

Arising Out of PS. Case No.-298 Year-2023 Thana- CHIRAIYA District- East Champaran

Ram Avtar Singh @ Ramabatar Singh, aged about 71 years, Male, S/O Ram Krishna Polly @ Banka Singh, R/O Mohalla- Ram Krishna Polly, Main Gate Durgapur, Village- Durgapur, P.S- Durgapur, Distt.- Bardhman, West Bengal.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Sanjay Kumar Jha, Advocate
For the Opposite Party : Mr. Manoj Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 19-07-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Chiraiya P.S. Case No. 298 of 2023 dated 16.06.2023 for the offences punishable u/ss 414, 272 and 273 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 3780.72 litres of illicit English liquor was recovered from the Truck and Santro car.

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 petitioner is the owner of the said seized vehicle but the same was not driven by the petitioner at the time of alleged recovery. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted bail by this Court vide order dated 02.02.2024 passed in Cr. Misc. No. 2384 of 2024. 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, Motihari in connection with Chiraiya P.S. Case No. 298 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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