

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24305 of 2024

Arising Out of PS. Case No.-509 Year-2023 Thana- AKBARPUR District- Nawada

Dharmendra Paswan (Male), aged about 40 years, Son of Munshi Paswan,
Resident Of Village- Srirampur, P.S.- Akbarpur, Distt- Nawada.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Birendra Kumar, Advocate

For the Opposite Party : Mr. Surendra Prasad Singh, A.P.P.

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

ORAL ORDER

2 27-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Akbarpur P.S. Case No. 509 of 2023 dated 03.11.2023 registered for the offences punishable under Sections 30(a) and 30(d) of the Bihar Prohibition and Excise Act, 2016.

3. As per the prosecution case, total 90 litres of illicit country made liquor, 800 litres of mahua solution and an aluminum utensil were recovered from Badka Ahaar in the village of Srirampur.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in



this case. It is submitted that the name of the petitioner has sprung up in the present case on the basis of disclosure made by the villagers. 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. No incriminating article has been recovered from the conscious possession of the petitioner. Hence, no case under the Excise Act is made out against the petitioner. Learned counsel for the petitioner 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 F.I.R., no offence under the said provision is made out. There is no compliance of Section 100 of the Cr.P.C. The petitioner has one criminal antecedent as stated in paragraph no. 3 of the bail application. It is further submitted that other co-accused person has been granted anticipatory bail by a Bench of this Court vide Cr. Misc. No. 12402 of 2024 under order dated 29.02.2024.

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/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned court concerned, Nawada, in connection with Akbarpur P.S. Case No. 509 of 2023, subject to the condition 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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