

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28783 of 2024

Arising Out of PS. Case No.-301 Year-2020 Thana- GAIGHAT District- Muzaffarpur

Arvind Sah @ Arvind Kumar Son of Pahlad Sah @ Prahalad Sah Resident of
Village- Tengharhi, P.S.- Siwaipatti, Dist.- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Priyesh Kumar, Adv

For the Opposite Party/s : Mr. Renu Kumari, APP

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

ORAL ORDER

2 26-07-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Gaighat P.S. Case No. 301 of 2020 dated 27.09.2020 of the offences punishable u/s 272 273, 414, 420, 467, 468, 471, 120B of the I.P.C. and Section 30(a), 41, 56B of the Bihar Prohibition and Excise Act 2016.

3. As per the prosecution case, total 8000 litres of illicit raw spirit was recovered from the *Truck*.

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



the said vehicle and the same was not being driven by the him at the time of the alleged recovery. Similarly situated co-accused has already been granted anticipatory bail by the co-ordinate bench of this court *vide* order dated 01.04.2024 passed in Cr. Misc. No. 20728 of 2024. 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 Gaighat P.S. Case No. 301 of 2020 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with a condition/s:-

(i). The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to cancelled.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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