

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23277 of 2024

Arising Out of PS. Case No.-30 Year-2024 Thana- TILAUTHU District- Rohtas

Rajesh Paswan S/o Late Raja Ram Paswan @ Kaeel Paswan R/o vill - Uttar Patti, P.s. - Tilouthu, Distt. - Rohtas (Bihar)

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jai Prakash Singh

For the Opposite Party/s : Mr.Sanjay Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 05-04-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Tilauthu P.S Case No. 30/2024 dated 06.02.2024 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 10 litres of illicit country-made liquor was recovered from the house of the petitioner.

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. 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 materials available on record against the petitioner, I am of the view that no case for grant of anticipatory bail is made out. The petition is disposed off and the petitioner is directed to surrender to the Court below within six weeks from the date of this order and the Court below shall consider the prayer of the bail of the petitioner on the same day without being prejudice by this order.



7. This application stands disposed off.

(Chandra Prakash Singh, J)

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