

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25410 of 2024

Arising Out of PS. Case No.-1418 Year-2023 Thana- KHAJANCHI HAT District- Purnia

Ashutosh Kumar Son of Shasi Bhushan Singh R/o Village- Shiv puri Tatma
Toli, P.S.- K.Hat, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar

For the Opposite Party/s : Mr.Ramchandra Sahn

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

ORAL ORDER

2 15-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with K. Hat (Maranga) P.S. Case No. 1418 of 2023 dated 27.12.2023 for the offences punishable under Sections 272, 273 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 14.250 litres of illicit foreign liquor was recovered from the Scooty and 141 litres of illicit foreign liquor was recovered from the rented house of the co-accused person Saurabh Kumar.

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 antecedent in which he is on bail as stated in para 3 of the bail petition. The name of the petitioner transpired in this case because he is the owner of the said Scooty but the same was not being driven by the petitioner at the time of alleged occurrence. The apprehended co-accused person has disclosed the name of the petitioner. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. 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 APP 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, Purnea in connection with K. Hat (Maranga) P.S. Case No. 1418 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

Ranjeet/-

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