

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22854 of 2024

Arising Out of PS. Case No.-144 Year-2023 Thana- MUSRIGHRARI District- Samastipur

Chandan Kumar Sah S/o- Ram Saran Sah village- Mahanth Maniyari Ps-
Maniyati Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mahendra Pratap

For the Opposite Party/s : Mr.Ramesh Chandra

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

ORAL ORDER

2 20-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Musrigharari P.S. Case No. 144 of 2023 dated 14.09.2023 for the offences punishable u/s 30(a), 32, 36 of the Bihar Prohibition and Excise (Amendment) Act.

3. As per the prosecution case, total 3519.360 litres of illicit foreign liquor was recovered from the three different vehicles near the Waste Management Office.

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 material has been



recovered from the conscious possession of the petitioner, hence no case is made out. The petitioner being the owner of one seized vehicles but the said vehicle was not being driven by the petitioner at the time of alleged recovery. Similarly situated co-accused person has been granted anticipatory bail by this Court vide order dated 06.12.2023 passed in Cr. Misc. No. 75091 of 2023. 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 material available on the record, 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, Samastipur, in connection with Musrigharari P.S. Case No. 144 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)

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