

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23955 of 2024

Arising Out of PS. Case No.-76 Year-2019 Thana- HUSSAINGANJ District- Siwan

Sunil Ram, aged about 38 years, Gender-Male, S/O Bijamal Ram @ Vijaymal Ram, R/O Village- Harihans, P.S- Hussainganj, Distt.- Siwan.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Bijay Prakash Singh, Advocate
For the Opposite Party : Mrs. Sharda Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 12-07-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Hussainganj P.S Case No. 76/2019 dated 26.03.2019 for the offences punishable u/ss 30(a) and 36 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 14.400 litres of illicit liquor was recovered under a sack in the corner of courtyard of the co-accused, Bunil Ram.

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 possession of the petitioner, hence no case is made out. The alleged recovery of liquor was made from the courtyard of the co-accused, Bunil Ram. It is further submitted that the local people disclosed the name of the petitioner. The other co-accused has been granted bail by a Bench of this Court vide Cr. Misc. No. 16259 of 2024 under order dated 13.03.2024. There is no statutory compliance of Sections 100(4)(c) of the Cr.P.C. 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 Exclusive Special, Excise Court No. 1, Siwan in connection with Hussainganj P.S Case No. 76/2019, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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