

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23589 of 2024

Arising Out of PS. Case No.-245 Year-2024 Thana- Excise P.S. District- Muzaffarpur

Deepak Kumar Son of Baiju Singh Resident of Village- Bajitpur Kodriya, P.S. Kudhani (Turki O.P.), District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar
For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 08-04-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner has preferred this application for grant of anticipatory bail in connection with Muzaffarpur Excise P.S. Case No. 245/2024, dated 07.02.2024, for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, 63.75 litres of illicit foreign liquor was recovered from the possession of the co-accused.

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 apprehended co-accused person disclosed the name of the petitioner due to previous enmity. 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, Muzaffarpur in connection with Muzaffarpur Excise P.S. Case No. 245/2024 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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