

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28835 of 2024

Arising Out of PS. Case No.-249 Year-2022 Thana- RAGHOPUR District- Supaul

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Durganand Singh @ Kanhaiya son of Late Vishundeo Singh Village- W.No-9,
Kamalpur Bhagwatipur Ps- Biraul Dist- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dipak Kumar

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

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

ORAL ORDER

2 20-04-2024 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 Raghopur P.S. Case No. 249 of 2022, dated 22.06.2022 for the offences punishable under sections 30(a)/32(ii)(iii)/36/41(i) of the Bihar Prohibition and Excise Act and u/ss 420/467/468/471/120B of the Indian Penal Code.

3. As per prosecution case, total 1390.5 litres of illicit foreign liquor was recovered from a truck.

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. The petitioner is neither the owner nor the driver of the seized truck. 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, Supaul in connection with Raghopur P.S. Case No. 249 of 2022, 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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