

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24707 of 2024

Arising Out of PS. Case No.-512 Year-2023 Thana- CHHATAUNI District- East Champaran

Suruj Sah @ Suraj Sah, aged about 40 years (M), Son of Late Lakhan Sah @ Late Lakhan Saha, Resident of Village- Bangali Colony, Gali No. 4, P.S.- Chhatauni, Dist.- East Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner : Mrs. Rashmi Jha and Mr. Hemant Ray, Advocates
For the Opposite Party : Mr. Sanjay Kumar Pandey, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 27-03-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Chhatauni P.S. Case No. 512 of 2023 dated 12.10.2023 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 25.110 litres of illicit foreign liquor was recovered from the house of the co-accused, Gita Devi.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. The petitioner has six criminal antecedents as stated in paragraph no. 3 of the bail petition. The petitioner has been



made accused in the present case only because he happens to be the son of the co-accused, Gita Devi. It is further submitted that the petitioner has no concern with the alleged recovery. No incriminating article has been recovered from the conscious possession of the petitioner. Hence, no case under the Excise Act is made out against the petitioner. Learned counsel for the petitioner 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 F.I.R., no offence under the said provision is made out. There is no compliance of Section 100 of the Cr.P.C. It is further submitted that other co-accused persons have been granted anticipatory bail by a Bench of this Court vide Cr. Misc. No. 12487 of 2024 under order dated 29.02.2024.

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, 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/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned court concerned, East Champaran, Motihari, in connection with Chhatauni P.S. Case No. 512 of 2023, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure with further condition:-

I. The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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