

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24694 of 2024

Arising Out of PS. Case No.-396 Year-2023 Thana- BIBHUTIPUR District- Samastipur

Suraj Kumar, aged about 27 years, Male, son of Vijay Kumar Mahto, R/O
Village- Laguniya Raghu Kanth, P.S.- Bibhutipur, Dist- Samastipur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Madhav Kumar, Advocate
For the Opposite Party : Mr. Ashok Kumar Singh, 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 Bibhutipur P.S. Case No. 396 of 2023 dated 10.10.2023 registered for the offences punishable under Sections 272, 273, 420, 467, 468, 471 read with Section 34 of the I.P.C. and Sections 30(a), 32 and 41(i) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. As per the prosecution case, total 1723.140 litres of illicit foreign liquor was recovered from a Pick-up Van, a car, three motorcycles and from the house of the co-accused Shashi Kant Kumar.

4. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has been falsely implicated in this case. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. The name of the petitioner has sprung up in the present case as the petitioner is the owner of Glamour Motorcycle bearing Registration No. BR33AH-1608 which is alleged to be seized by the police by finding total 17.280 litres of liquor in cartoon from that motorcycle. It is further submitted that the said motorcycle was gifted by the petitioner to his brother-in-law, namely, Jitendra, at the time of marriage and the petitioner had no knowledge about the alleged incident. 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. 14170 of 2024 under order dated 06.03.2024 and Cr. Misc. No. 13958 of 2024 under order dated 06.03.2024, annexed as Annexure-2 series to the bail petition..

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, Samastipur, in connection with Bibhutipur P.S. Case No. 396 of 2023, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

U.K./-

U		T	
---	--	---	--

