

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24353 of 2024

Arising Out of PS. Case No.-496 Year-2023 Thana- BARBIGHA District- Sheikhpura

Gadho Chaudhary @ Gado Chaudhary, (Male), Son Of Late Baudhu Chaudhary, aged about 25 years, Resident Of Village - Narayanpur, Police Station - Barbigha and District – Sheikhpura.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Nilendu Kumar Choudhary, Advocate
For the Opposite Party : Mr. Ajay Kumar No. 2, 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 Barbigha P.S. Case No. 496 of 2023 dated 28.11.2023 registered for the offences punishable under Sections 30(a) and 30(c) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. As per the prosecution case, two big pots of aluminum, two small pots of aluminum, two utensils of soil made for preparation of liquor, one big gas cylinder, two bhatties and 150 litres of semi made Chhowa were recovered from the house of the petitioner. It is further alleged that the said 150 litres of semi made Chhowa was destroyed at the place of



occurrence.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. No incriminating article has been recovered from the conscious possession of the petitioner. It is only said that 150 litres of Chhowa, some utensils and gas cylinder which are being used in preparation of liquor were recovered and the said Chhowa was destroyed at the house 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. The petitioner has four criminal antecedents in which he is on bail as stated in paragraph no. 3 of the bail application.

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, Sheikhpura, in connection with Barbigha P.S. Case No. 496 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)

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