

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24871 of 2024

Arising Out of PS. Case No.-301 Year-2023 Thana- AMNAUR District- Saran

Sonu Singh @ Sonu Kumar Singh, aged about 20 years, Gender-Male, S/O Kashinath Singh, R/O Village- Kaituka Lachhi, P.S- Amnour, Distt.- Saran at Chapra.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Dewendra Narayan Singh, Advocate
For the Opposite Party : Mr. Md. Iftekhhar Mahmood, 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 Amnaur P.S. Case No. 301 of 2023 dated 02.12.2023 registered for the offences punishable under Sections 30(a), 33 and 34 of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. As per the prosecution case, 875 litres of illicit liquor was recovered from the Dalan of the co-accused Pawan Yadav, 5 litres of illicit liquor was recovered from the motorcycle, 144 litres of illicit foreign liquor was recovered from the bathan of the co-accused Pankaj Singh.

4. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has been falsely implicated in this case. The petitioner has one criminal antecedent in which he is on bail as stated in paragraph no. 3 of the bail petition. The name of the petitioner has sprung up in the present case in the confessional statement of the co-accused, Uma Shankar Sah. It is further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from the dalan and bathan of the co-accused Pawan Yadav and Pankaj Singh. 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. 10746 of 2024 under order dated 27.02.2024, Cr. Misc. No. 12139 of 2024 under order dated 29.02.2024 and Cr. Misc. No. 15999 of 2024 under order dated 12.03.2024.

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 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/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned court concerned, Saran at Chapra, in connection with Amnour P.S. Case No. 301 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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