

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33545 of 2024

Arising Out of PS. Case No.-518 Year-2019 Thana- BAHERA District- Darbhanga

Hare Ram Yadav Son of Lalo Yadav Resident of vill.-Kodhli, P.S.-Biraul,
Distt.-Darbhanga

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vinay Kumar Mishra

For the Opposite Party/s : Mr.Awadhesh Kumar Singh

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

ORAL ORDER

3 17-05-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. At the outset, learned counsel for the petitioner has submitted that the defect/s as pointed out by the office has been removed by filing accused list in course of the day and the same is kept on record.

3. The petitioner is apprehending his/her arrest in a case in connection with Bahera P.S. Case No. 518 of 2019 dated 25.12.2019 for the offence/s punishable u/ss 30(a), 32 (iii) and 42(i) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 3791.72 litres of illicit liquor was recovered from the four different vehicles.

5. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The petitioner is neither the owner nor the driver of the said vehicles. The petitioner is not named in the FIR. The name of the petitioner has transpired in the confessional statement of the co-accused Laxaman Nayak. The petitioner has no concern with the alleged recovery. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. Similarly situated co-accused has already been granted anticipatory bail by this court *vide* order dated 24.06.2023 passed in Cr. Misc. No. 34320 of 2023. Learned counsel has submitted that 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 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 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 material available on the record, let the above named petitioner, in the event of his/her 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, Darbhanga in connection with Bahera P.S. Case No. 518 of 2019, 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)

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