

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28068 of 2024

Arising Out of PS. Case No.-32 Year-2024 Thana- BIBHUTIPUR District- Samastipur

Krishna Kumar @ Chhotan Mahto @ Kishan Kumar @ Chhotu S/o- Hari
Narayan Mahto R/o Vill- Patailiya, P.S.- Bibhutipur, Dist- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rabindra Kumar Priyadarshi, Adv.

For the Opposite Party/s : Mr.Sharda Kumari, APP

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

ORAL ORDER

2 20-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his/her arrest in a case in connection with Bibhutipur P.S. Case No. 32 of 2024 dated 29.01.2024 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 37.875 litres of illicit foreign liquor from the house of the co-accused Shubham Kumar, 1402.56 litres of foreign liquor from the dilapidated house of late Raj Narayan Singh and 132.12 litres of foreign liquor near the pond were recovered.

4. 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. Local Mukhiya disclosed the name of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has four other criminal antecedents as stated in para 3 of the bail petition. 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, Samastipur in connection with Bibhutipur P.S. Case No. 32 of 2024, 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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