

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26274 of 2024

Arising Out of PS. Case No.-34 Year-2024 Thana- PIYAR District- Muzaffarpur

Sudhanshu Kumar @ Moti S/o Ramlalit Singh R/o vill - Ratwara, P.s. - Piyar
(Hatha O.P.), Distt - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Tiwary
For the Opposite Party/s : Mr. Amitesh Kumar

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

ORAL ORDER

2 16-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner has preferred this application for grant of anticipatory bail in connection with Piyar P.S. Case No. 34 of 2024, for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 61.2 litres of illicit whisky was recovered behind the house of the co-accused in a bush and a motorcycle was also recovered.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has five criminal antecedents in which in all cases he is on bail as stated in para 3 of the bail petition.



The apprehended co-accused person disclosed the name of the petitioner due to previous enmity. Learned counsel further submitted that the recovery is made from the open place. The petitioner is not the owner of the seized motorcycle. Nothing has been recovered from the conscious possession of the petitioner, hence 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 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 FIR, no offence under the said provision is made out.

5. Learned APP 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/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Muzaffarpur in connection with Piyar P.S. Case No. 34 of 2024, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure with further condition:

1. The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the prosecution will be at liberty to move for cancellation of his bail bond.

7. The application stands allowed.

(Chandra Prakash Singh, J)

Ranjeet/-

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