

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26745 of 2024

Arising Out of PS. Case No.-6 Year-2024 Thana- BALIGAON District- Vaishali

Rahul Kumar @ Rahul Chaurashiya Son Of Nawal Kishor Bhagat @ Nand Kishor Bhagat Resident Of Village- Sarmastpur Chandanpatti @ Sujawalpur Ps- Sakara, Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Nitu Kumari

For the Opposite Party/s : Mr. Anand Kishore Choudhary

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 is apprehending his arrest in connection with Baligaon P.S. Case No. 06 of 2024 dated 16.01.2024 for the offences punishable under Sections 272, 273, 414, 34 of the Indian Penal Code and u/ss 30(a), 32(ii), 41 (i) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 846.36 litres of illicit Indian made foreign liquor was recovered from the Pickup Van.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal antecedent in which he



is on bail as stated in para 3 of the bail petition. The apprehended co-accused person disclosed the name of the petitioner. The petitioner is neither the owner nor the driver of the seized vehicle. 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, Vaishali at Hajipur in connection with Baligaon P.S. Case No. 06 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)

Ranjeet/-

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