

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28685 of 2024

Arising Out of PS. Case No.-51 Year-2023 Thana- DEV District- Aurangabad

Rahul Shikari S/o Bashisth Shikari R/o vill - Bhandari, P.S. - Deo, Distt. -
Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar Pandey, Adv

For the Opposite Party/s : Mr. Pronoti Singh, APP

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

ORAL ORDER

2 19-07-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Deo P.S. Case No. 51 of 2023 dated 04.03.2023 for the offences punishable u/s 30(a)(c) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 45 litres of illicit *desi* Mahua and liquor making apparatus were recovered from the bank of *Keshar River* and 30,000 litres of *Jawa Mahuwa* were destroyed at the place of occurrence.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has clean antecedent as stated at para 3 of the bail



petition. The petitioner has no concern with the alleged recovery. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The similar situated co-accused person has already been granted anticipatory bail by the Co-ordinate Bench *vide* order dated 30.11.2023 passed in Cr. Misc. No. 74179 of 2023. 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 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/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Aurangabad (Bihar) in connection with Deo P.S. Case No. 51 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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