

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32485 of 2024

Arising Out of PS. Case No.-7 Year-2023 Thana- PANDAUL District- Madhubani

Mohan Singh Son Of Samit Kumar Singh Vill- Raghapur Balat, P.S-
Rajnagar, Dist- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr.Jagnnath Singh, Advocate
	Mr. Md. Ghulam Mustafa, Advocate
	Mr. Deepak Kumar, Advocate
	Mr. Padmnabh Kashyap, Advocate
For the Opposite Party/s :	Mr. Umanath Mishra, 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 G.R. No. 107/2023 arising out of Pandaul P.S. Case No. 07 of 2023 dated 16.01.2023 for the offences punishable u/s 272, 273 and 120B of the I.P.C. and Sections 30(a), 32(i)(ii), 36 and 41(1) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 444.6 litres of illicit liquor has been recovered from the vehicle.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The



petitioner has two criminal antecedents as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The petitioner is neither the owner nor the driver of the said vehicle. The petitioner is not named in the F.I.R. The name of the petitioner has sprung up during course of investigation. 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. The other co-accused person has already been granted bail by this court *vide* order dated 02.01.2024 passed in Cr. Misc. No. 78091/2023.

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, Madhubani in connection with Pandaul P.S. Case No. 07 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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