

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29244 of 2024

Arising Out of PS. Case No.-544 Year-2023 Thana- SAHPUR District- Bhojpur

Sukesh Singh @ Sukesh Ray, aged about 32 years, Male, Son of Ram Bihari Singh, Resident of village- Ishwarpura, P.S.- Shahpur, District- Bhojpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Ravindra Kumar, Advocate

For the Opposite Party : Mr. Shailendra Kumar Singh, A.P.P.

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 Shahpur P.S. Case No. 544 of 2023 dated 29.11.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 40 litres of illicit country made mahua liquor was recovered near the poultry farm.

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



There is nothing against the petitioner except criminal antecedents. It is further submitted that the petitioner is not the owner of the said poultry farm. Learned counsel has further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted bail by this Court vide order dated 14.03.2024 passed in Cr. Misc. No. 16639 of 2024. 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 material available on the record, 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, Bhojpur at Ara in connection with Shahpur P.S. Case No. 544 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition:-

(i). 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, his bail bonds is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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