

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29638 of 2024

Arising Out of PS. Case No.-117 Year-2024 Thana- MOHANIYA District- Kaimur (Bhabua)

Chotu @ Chotu Sah @ Amit Kumar Son of Vishwnath Sah Resident of
Village- Pratapganj, P.S- Sasaram Town, Dist- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashutosh Tripathy, Adv

For the Opposite Party/s : Mr.Narsingh Tanti, APP

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

ORAL ORDER

2 23-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Mohania P.S. Case No. 117 of 2024 dated 29.02.2024 of the offences punishable u/s 414 of the I.P.C. and Section 30(a) of the Bihar Prohibition and Excise Act 2018.

3. As per the prosecution case, total 788.4 litres of illicit foreign liquor was recovered from the *pick-up 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 nine criminal antecedents as stated in para 3 of the bail petition. The petitioner is the owner of one of the seized vehicle but the same was not being driven by him



at the time of the alleged recovery. The name of the petitioner was disclosed by the apprehended person. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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,
Kaimur at Bhabua in connection with Mohania P.S. Case No.
117 of 2024 subject to conditions as laid down under section
438(2) of the Code of Criminal Procedure, with further
condition/s:-

- (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, the bail bond of the petitioner is liable to be cancelled.*
- (ii) *If the petitioner is found involved in similar nature of offence in future, the prosecution will be at liberty to move for condition of their bail bond.*

7. This application stands allowed.

(Chandra Prakash Singh, J)

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