

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29567 of 2024

Arising Out of PS. Case No.-140 Year-2023 Thana- BHAGWANPUR District- Vaishali

Kanhai @ Kanhai Kumar, aged about 32 years, Male, Son Of Suresh Prasad Singh, Resident Of -Mohalla- Varishpur Patti, P.S.- Bhagwanpur, District- Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mrs. Pooja Arya, Advocate

For the Opposite Party : Mrs. Nirmala Kumari, 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 a case in connection with Bhagwanpur P.S. Case No. 140 of 2023 dated 13.06.2023 for the offences punishable u/ss 420, 414, 467 and 120B of the IPC and u/ss 30(a), 32(i)(ii), 36 and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1522.77 litres of foreign liquor was recovered from the truck and the car.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The petitioner is not the



owner of the said seized vehicle. The petitioner has no concern with the alleged recovery. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. The co-accused person has already been granted bail by this Court vide order dated 15.02.2024 passed in Cr. Misc. No. 5190 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 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 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, Vaishali in connection with Bhagwanpur P.S. Case No. 140 of 2023, 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)

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