

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31085 of 2024

Arising Out of PS. Case No.-07 Year-2024 Thana- GAMAHARIYA District- Madhepura

Pradeep Sharma @ Pradeep Kumar SON OF LATE BADRI SHARMA
RESIDENT OF VILLAGE-suryaganj, ward no 16, POLICE STATION-
gamahariya, DIST- MADHEPURA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjay Kumar Singh, Adv.

For the Opposite Party/s : Mr.Yogendra Kumar, APP

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

ORAL ORDER

2 25-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his/her arrest in a case in connection with Gamahariya P.S. Case No. 07 of 2024 dated 13.01.2024 for the offence/s punishable u/s section 21 (C) of the NDPS Act and section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 45.750 litres of Codeine mixed Wiscof cough syrup was recovered from the house of the co-accused, Ranjit Kumar.

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 said recovery was made from the house of the co-accused, Ranjit Kumar. The seized contraband is of commercial quantity. The apprehended co-accused person disclosed the name of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has two criminal antecedents which are not related to NDPS Act as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. 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 the record, let the above named petitioner, in the event of his/her 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, Madhepura in connection with Gamahariya P.S. Case No. 07 of 2024, 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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