

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34079 of 2024

Arising Out of PS. Case No.-263 Year-2024 Thana- Excise P.S. District- Muzaffarpur

Samiullah Khan @ Sammiulah Khan Son of Samim Alam Resident of village
- Budhanpur, P.S.- Deoria, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Adv.

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

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

ORAL ORDER

2 26-07-2024 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 Excise P.S. Case No. 263 of 2024 dated 09.02.2024 for the offence/s punishable u/s 30(a) and 32(3) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 35.28 litres of illicit foreign liquor was recovered from the house of the petitioner.

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. As per FIR, the recovery



was made from the house of the petitioner and as per seizure list, the said recovery was made from Budhanpur. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. The similarly situated co-accused has been granted bail by this Court vide order dated 23.04.2024 in Cr. Misc. No. 30101 of 2024. 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 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, Muzaffarpur in connection with Excise P.S. Case No. 263 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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