

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31811 of 2024

Arising Out of PS. Case No.-222 Year-2024 Thana- Excise P.S. District- Aurangabad

Bala Lakhandar Kumar SON OF KAPIL YADAV RESIDENT OF
VILLAGE- DALPATPUR, PS- PIPRA, DIST- PALAMU JHARKHAND

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukul Kumari

For the Opposite Party/s : Mr.Rana Randhir Singh

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

ORAL ORDER

2 22-05-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner has preferred this application for grant of anticipatory bail in connection with G.R. No. 398/2024, arising out of Excise P.S. Case No. 222 of 2024, dated 14.03.2024, for the offences punishable u/ss 30(a), 30(c) & 32(3) of the Bihar Prohibition and Excise Act and Rule 2(e), 3, 5(b) and 18 of the Bihar State Mahua Flower Manual 2006.

3. As per prosecution case, total 5.750 litres of illicit country made liquor, 100 Kg. of Mahua flower were recovered from the motorcycle.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The apprehended co-accused person has disclosed the name of the petitioner due to previous enmity. The petitioner is the owner of the seized motorcycle but the same was not being driven by the petitioner at the time of alleged recovery. Nothing has been recovered from the conscious possession of the petitioner, hence 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 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 APP 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, Aurangabad in connection with G.R. No. 398/2024, arising out of Excise P.S. Case No. 222 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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