

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31306 of 2024

Arising Out of PS. Case No.-284 Year-2020 Thana- MADANPUR District- Aurangabad

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Dinesh Kumar Hawelia @ Dinesh Kumar Haweliya Son of Late Jaideo Prasad Hawelia Resident of Mohalla- CB-100, Sector 01, Near Tank no.- 2, Salt Lake Bidhan Nagar, C.C. Block Kolkata ,P.S- Bidhan Nagar, Dist- Kolkatta, State- West Bengal

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rupa Kumari

For the Opposite Party/s : Mr.Akshay Lal Pandit

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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 arrest in connection with Madanpur P.S. Case No. 284 of 2020 dated 23.12.2020 for the offences punishable under Section 30(a) (c) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 165.5 litres of spirit was recovered from two car and one motorcycle and 1763.5 litres of spirit, bottle caps and wrappers were recovered from the house of the co-accused Dhananjay Kumar.

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 name of the petitioner has transpired in this case only on the basis of the owner of the said vehicle but the said vehicle was already sold to one co-accused Bharat Dwivedi prior to the said occurrence vide Annexure- 2. The seized vehicle 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, Bihar in connection with Madanpur P.S. Case No. 284 of 2020, 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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