

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31454 of 2024

Arising Out of PS. Case No.-310 Year-2020 Thana- PHULWARISHARIF District- Patna

Md. Sonu son of Md. Nasim R/o Mansoor Gali, P.S.- Phulwarisharif, Dist.- Patna

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramjiban Prasad, Adv.

For the Opposite Party/s : Mr.Satyendra Prasad, 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 arrest in connection with Phulwarisharif P.S. Case No. 310 of 2020 dated 10.06.2020 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 8 litres of illicit country made liquor was recovered from the plastic bag of the co-accused, Pintu Kumar and 4.5 litres of illicit English liquor was recovered from the bag of the co-accused, Md. Mahtab.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has two criminal antecedents as stated



in para 3 of the bail petition. The name of the petitioner was disclosed by the apprehended person. It is further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from the bag of the co-accused persons. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. 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 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 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, Patna in connection with Phulwarisharif P.S. Case No. 310 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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