

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31307 of 2024

Arising Out of PS. Case No.-268 Year-2023 Thana- MOTIPUR District- Muzaffarpur

Mukesh Kumar @ Mukesh Sah Son of Aklu Sah R/O village- Brahmapura,
P.S.- Motipur, Dist.- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amit Kumar Jha
For the Opposite Party/s : Mr.Pradeep Narain Kumar

**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 Motipur P.S. Case No. 268 of 2023 dated 03.09.2023 for the offences punishable under Sections 272 and 273 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 10.125 litres of illicit foreign liquor was recovered from bathan of the petitioner, 10 litres of illicit country made liquor was recovered from the possession of the co-accused Munna Kumar and 12 litres of illicit country made liquor was recovered from the possession of the co-accused Mukesh Thakur.



4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal antecedent in which he is on bail as stated in para 3 of the bail petition. The apprehended co-accused persons disclosed the name of the petitioner due to previous enmity. The alleged recovery is made from the open place which is accessible to anyone. 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, Muzaffarpur in connection with Motipur P.S. Case No. 268 of 2023, 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)

Ranjeet/-

U		T	
---	--	---	--

