

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34541 of 2024

Arising Out of PS. Case No.-108 Year-2024 Thana- BAKHARI District- Begusarai

Kundan Kumar Sahni @ Kundan Sahani Son of Late Ganesh Sahni Resident
of Village- Goriyari, Ward no.- 27, P.S- Bakhri, Dist- Begusarai

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arjun Prasad, Adv.
For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

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

ORAL ORDER

3 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 Bakhri P.S. Case No. 108 of 2024 dated
27.03.2024 for the offence/s punishable u/s 30(a) and 30(d) of
the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 15 litres of illicit
country made liquor was recovered from the hut of the co-
accused.

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. The recovery was made



from an open place that is accessible to anyone. The name of the petitioner was disclosed by the local Chowkidar. The petitioner has no concern with the alleged recovery. The petitioner has three 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 23.05.2024 in Cr. Misc. No. 32387 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, Begusarai in connection with Bakhri P.S. Case No. 108 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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