

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33619 of 2024

Arising Out of PS. Case No.-246 Year-2023 Thana- DALSINGHSARAI District- Samastipur

Shankar Mahto @ Shankar Prasad @ Shankar @ Prasad Son of Asharfi
Mahto Resident of Village- Bambaiya Harlal, Police Station- Dalsinghsarai,
Dist.- Samastipur

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mahendra Pratap, Adv.

For the Opposite Party/s : Mr. Zainul Abedin, 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 Dalsinghsarai P.S. Case No. 246 of 2023 dated 14.06.2023 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 894.6 litres of illicit foreign liquor was recovered from the pick-up van.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is not named in the FIR. The name of the petitioner was disclosed by local Chaukidar. No incriminating material has been recovered from the conscious



possession of the petitioner. The petitioner is neither the owner nor the driver of the said vehicle. The petitioner has no concern with the alleged recovery. The petitioner has three criminal antecedent as stated in para 3 of the bail petition. 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,
Samastipur in connection with Dalsinghsarai P.S. Case No. 246
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)

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