

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38678 of 2024

Arising Out of PS. Case No.-5 Year-2024 Thana- GOGRI District- Khagaria

Antu Sahni @ Anand Kumar son of Upendra Sahni Village- Sonvarsha Ghat,
Ps- Chautham Dist- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Adv

For the Opposite Party/s : Mr. Rajendra Singh, APP

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

ORAL ORDER

2 09-08-2024 Learned counsel for the petitioner seeks for and is permitted to make necessary correction in paragraph three of the bail petition in the course of day.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in connection with Gogri (Poura O.P.) P.S. Case No. 05 of 2024, dated 02.01.2024 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

4. As per prosecution case, total 20 litres of illicit country made liquor, liquor making apparatus and 50 litres of fermented mahua were recovered from the hut made of plastic.

5. 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 as stated in para 3 of the bail petition. The petitioner has no concern with the alleged recovery rather the recovery has been made from the hut of co-accused *Rangila Raj @ Rangila Singh*. Local people has disclosed the name of the petitioner. Similarly situated co-accused has already been granted anticipatory bail by the co-ordinate bench of this court *vide* order dated 05.04.2024 passed in Cr. Misc. No. 23008 of 2024. 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.

6. 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.



7. 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, Khagaria in connection with Gogri (Poura O.P.) P.S. Case No. 05 of 2024, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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