

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34067 of 2024

Arising Out of PS. Case No.-767 Year-2023 Thana- TURKAULIYA District- East
Champaran

=====

BHOLA SAHANI SON OF SRI BHAGWAN SAHANI RESIDENT OF
VILLAGE - JHAKHIYA, P.S. - BANJARIYA, DISTRICT - EAST
CHAMPARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

=====

Appearance :

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

For the Opposite Party/s : Mr. Syed Ehteshamuddin, APP

=====

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

ORAL ORDER

2 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 Turkauliya(Banjariya) P.S. Case No.
767 of 2023 dated 07.07.2023 for the offence/s punishable u/s
30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 160 litres of illicit
country made liquor and 5000 litres of raw materials were
recovered from the bank of Jhakhiya.

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 was accessible to anyone. The name of the petitioner was disclosed by the local Chawkidar. The petitioner has no concern with the alleged recovery. The petitioner has four criminal antecedent as stated in para 3 of the bail petition. The similarly situated co-accused has been granted bail vide order dated 01.02.2024 in Cr. Misc. No. 1542 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, East Champaran at Motihari in connection with Turkauliya (Banjariya) P.S. Case No. 767 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)

Shivam/-

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

