

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35391 of 2024

Arising Out of PS. Case No.-659 Year-2023 Thana- BASANTPUR District- Siwan

Munna Singh @ Munna Kumar Singh Son of Suresh Singh Resident of
Village- Basantpur sipah, P.S- Basantpur , Dist- Siwan

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh

For the Opposite Party/s : Mr.Umeshanand Pandit

**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 arrest in connection with Basantpur P.S. Case No. 659 of 2023 dated 16.12.2023 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 125.920 litres of illicit Indian made foreign liquor was recovered near the Madhesia Hotel, village- Basantpur left by the co-accused persons.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has three criminal antecedents as stated



in para 3 of the bail petition. The petitioner is named in the F.I.R. The recovery is made from an 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. The co-accused person has already been granted anticipatory bail by this court vide order dated 24.04.2024 passed in Cr. Misc. No. 31291 of 2024. 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, Siwan in connection with Basantpur P.S. Case No. 659 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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