

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38051 of 2024

Arising Out of PS. Case No.-594 Year-2023 Thana- DARIYAPUR District- Saran

Narvadeshwar Singh @ Chattan Singh @ Narmabadeshwar Singh S/O Late
Ramdeo Singh R/O SHRI NAGAR, P.S.- DARIYAPUR, DIST- SARAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Dilip Kumar No. 1, APP

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

ORAL ORDER

2 09-08-2024 Heard learned counsel for the petitioner and

learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Dariyapur P.S Case No. 594 of 2023 dated 10.09.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 22.14 litres of illicit foreign liquor was recovered from the garden in front of the house of Kapileshwar Singh.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that the said garden does not belong to



the petitioner. Learned counsel has further submitted that local *chaukidar* disclosed the name of the petitioner. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The said recovery has been made from an open place which is accessible to anyone. The co-accused person has already been granted anticipatory bail by this court vide order dated 22.01.2024 passed in Cr. Misc. No. 83671 of 2023. 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 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 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, Saran in connection with Dariyapur P.S Case No. 594 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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