

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36153 of 2024

Arising Out of PS. Case No.-6 Year-2024 Thana- THAKRAHA District- West Champaran

Prem Sagar Mali @ Prem Sagar Kumar Mali Son of Kailalsh Mali @ Kailash
Bhagat Resident of Village -Chakhanikishan Patti, P.S.- Bagaha Dist-West
Champaran

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anand Kishore Choudhary, Adv.

For the Opposite Party/s : Mr.Kumar Veerendra Narayan, 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 arrest in connection with Thakaraha P.S. Case No. 06 of 2024 dated 04.02.2024 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 130.860 litres of illicit foreign liquor was recovered from the tractor.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has two criminal antecedents as stated at para 3 of the bail petition. The petitioner is not the owner of the said vehicle and the said vehicle was not being driven by the petitioner at the



time of the alleged recovery. Nothing has been recovered from the possession of the petitioner and the petitioner has no concern with the alleged recovery hence, no case is made out against the petitioner. The co-accused person has already been granted regular bail by this court vide order dated 29.04.2024 passed in Cr. Misc. No. 32660 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 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, Bagaha, West Champaran in connection with Thakraha P.S. Case No. 06 of 2024, 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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