

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40428 of 2024

Arising Out of PS. Case No.-766 Year-2023 Thana- SARAIYA District- Muzaffarpur

Alok Kumar @ Alok Singh Son of Sri Lala Singh @ Vinod Singh R/O Vill.-
Mohanpur, P.S.- Kudhani, Dist.- Muzaffarpur

... .. Petitioner/s

Versus

The State Of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Adv.

For the Opposite Party/s : Mr. Abhay Kumar Roy, APP

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

ORAL ORDER

2 30-08-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in connection with Saraiya P.S. Case No. 766 of 2023 dated 10.11.2023 for the offences punishable u/s 272, 273/34 of the I.P.C. and u/s 30(a), 32(2), 32(3), 36, 41(1), 41(2) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1717.200 litres of foreign liquor was recovered from the truck.

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 petitioner is neither



the owner nor the driver of the said vehicle. The petitioner has no concern with the alleged recovery. The name of the petitioner has transpired in the confessional statement of the apprehended persons. The petitioner has four criminal antecedents as stated in para 3 of the bail petition. The similarly situated co-accused has been granted anticipatory bail by this Court vide order dated 16.02.2024 passed in Cr. Misc. No. 5654 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, Muzaffarpur in connection with Saraiya P.S. Case No. 766 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition/s:-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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