

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40364 of 2024

Arising Out of PS. Case No.-21 Year-2024 Thana- JAYNAGAR District- Madhubani

Barun Yadav S/O RAMASHISH YADAV R/O VILLAGE- KUWADH, P.S-
JAYNAGAR, DISTT.- MADHUBANI.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha, Adv.

For the Opposite Party/s : Mr. Arun Kumar, 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 registered for the offences punishable under Sections 272, 273, 307, 353, 224 and 34 of the Indian Penal Code Section 30(a) and 45 of Bihar Liquor Prohibition and Excise Act.

3. As per the prosecution case, total 198 litres of illicit Nepali Saunfi country made liquor was recovered from the bag tied with the motorcycle. Further the petitioner and the co-accused persons holding *lathi* got the apprehended person released from the custody of police and they caused hindrance in the discharge of official duties of the police personnel.

4. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged offence. Learned counsel for the petitioner has submitted that the petitioner is not the owner of the seized motorcycle. No one sustained injury. The injury of the injured is not mentioned in the impugned order. The similarly situated co-accused has been granted anticipatory bail by this Court vide order dated 02.08.2024 in Cr. Misc. No. 31861 of 2024. The petitioner has four criminal antecedents in which he is on bail in all the cases as stated at para 3 of the bail petition. 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. It is further submitted that there is specific allegation of assault is against the petitioner.

6. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender within a period of eight 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, Madhubani in connection with Jaynagar P.S. Case No. 21 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with the condition:-

(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 bonds of the petitioner is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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