

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43906 of 2024

Arising Out of PS. Case No.-138 Year-2024 Thana- RAJAPAKAR District- Vaishali

Hirany Pratap Singh Dev @ Hemant Kumar Singh Son of Late Ashok Kumar Singh Dev Resident of village - Rajapakar Dakshni, Kali Asthan, P.S.- Rajapakar, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha, Adv.
For the Opposite Party/s : Mr. Anant Kumar 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 06-09-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his/her arrest in a case in connection with Rajapakar P.S. Case No. 138 of 2024 dated 23.04.2024 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 155.520 litres of illicit foreign liquor was recovered from the basement of the house of the co-accused Himanshu Kumar.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has been made accused in this case only because he is the father of the co-accused, Himanshu Kumar. No



incriminating material has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has three criminal antecedents as stated in para 3 of the bail petition. The co-accused has been granted bail by this Court vide order dated 16.05.2024 in Cr. Misc. No. 37672 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, Vaishali at Hajipur in connection with Rajapakr P.S. Case No. 138 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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