

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41517 of 2024

Arising Out of PS. Case No.-909 Year-2023 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

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Bindu Kumar @Bindu @Vinod Kumar SON OF RAMCHANDRA SAH
VILLAGE- MAINA GALI, SHUKLA ROAD, CHATURBHUI ASTHAN ,
PS- MUZAFFARPUR TOWN, DIST- MUZAFFARUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP

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**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 connection with Muzaffarpur Town P.S. Case No. 909 of 2023 dated 02.11.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 483 litres of illicit foreign liquor was recovered from the motorcycle and the two thela.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal antecedent as stated in



para 3 of the bail petition. The name of the petitioner has sprung up in the confessional statement of the apprehended persons. It is further submitted that the recovery has been made from the motorcycle and the two thelas but the said vehicles does not belong to the petitioner. It is further submitted that the petitioner has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The similarly situated co-accused has been granted regular bail by this Court vide order dated 19.03.2024 passed in Cr. Misc. No. 18279 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 material available on the record, 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, Muzaffarpur in connection with Town P.S. Case No. 909 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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