

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47048 of 2024

Arising Out of PS. Case No.-72 Year-2024 Thana- MAHESHKHUNT District- Khagaria

Raju Chaurasiya @ Raju Chourasiya @ Raju S/o Rakesh Chourasiya @
Rakesh Kumar Chaurasia R/o Kajichak, ward no. 2, P.S. - Maheshkhunt,
Distt. - Khagaria

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amar Kumar Singh, Adv.

For the Opposite Party/s : Mr.Satyendra Narayan Singh, APP

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

ORAL ORDER

3 13-09-2024 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 Maheshkhunt P.S. Case No. 72 of 2024 dated 18.04.2024 registered for the offences punishable u/ss 188, 420, 467, 471 read with Section 34 of the Indian Penal Code and u/ss 30(a), 31(i)(ii) and 41 of the Bihar Prohibition and Excise Act and Section 7 of the Essential Commodities Act, 1955.

3. As per the prosecution case, total 807.48 litres of illicit foreign liquor was recovered from the three different motorcycles.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The



name of the petitioner was disclosed by local Chowkidar. The petitioner is not the owner of the said vehicle and he 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 co-accused persons have already been granted anticipatory bail by this court vide order dated 06.09.2024 passed in Cr. Misc. No. 44613 of 2024. The petitioner has one criminal antecedent as stated in 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 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, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on 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, Khagaria in connection with Maheshkhunt P.S. Case No. 72 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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