

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47415 of 2024

Arising Out of PS. Case No.-293 Year-2023 Thana- LADANIA District- Madhubani

Shyama Devi W/O- Visheshwar Yadav R/O- Ward No-4, Lagdi Ps- Ladaniya
Dist- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ratnakar Jha, Adv.

For the Opposite Party/s : Mr.Suresh Prasad Singh, APP

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

ORAL ORDER

2 13-09-2024 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 Ladaniya P.S. Case No. 293 of 2023 corresponding to G.R. No. 1645 of 2023 dated 10.11.2023 for the offence/s punishable u/ss 272 and 273 read with section 34 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 29 litres of illicit Nepali foreign liquor was recovered from the two different motorcycles.

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 not named in the F.I.R. The name of the petitioner has surfaced in this case only because he is the owner of one of the seized vehicle but the said vehicle was not being driven by the petitioner at the time of the alleged occurrence. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. The co-accused person has already been granted anticipatory bail by this court vide order dated 12.03.2024 passed in Cr. Misc. No. 15984 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 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/her 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, Madhubani in connection with Ladaniya P.S. Case No. 293 of 2023 corresponding to G.R. No. 1645 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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