

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45129 of 2024

Arising Out of PS. Case No.-8 Year-2022 Thana- SANGRAMPUR District- East Champaran

UPENDRA MUKHIYA SON OF GANESH MUKHIYA VILLAGE-
KOIRGAWA BIN TOLI, P.S.- SANGRAMPUR, DISTT.- EAST
CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Akbar Ali, 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 arrest in connection with Sangrampur P.S. Case No. 08 of 2022 dated 12.01.2022 for the offences punishable u/ss 30(a), 30(b), 30(c), 32, 41(i) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 5 bhatti, 3300 litres of liquor solution and 40 litres of illicit country made liquor were recovered in the middle of Durgai Chadair. It is further alleged that one of the bhattis belong to the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The name of the petitioner was disclosed by local



Chowkidar. It is further submitted that the petitioner has no concern with the alleged recovery and the said land, where the bhattis were running, does not belong to the petitioner. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The petitioner has two criminal antecedents in which he is on bail as stated in para 3 of the bail petition. The similarly situated co-accused has been granted anticipatory bail by this Court vide order dated 24.04.2024 passed in Cr. Misc. No. 31038 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 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, East Champaran at Motihari in connection with Sangrampur P.S. Case No. 08 of 2022, 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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