

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46470 of 2024

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

Nikku Singh @ Nitesh Kumar Singh @ Nikesh Kumar Singh S/o Late Sushil Kumar Singh R/o vill - Rajdham, ward no. 1, P.S. - Mahesh Khunt, Distt. - Khagaria

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajit Ranjan Kumar

For the Opposite Party/s : Mr.Parmeshwar Mehta

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 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 E.C. Act.

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 is innocent and has falsely been implicated in



this case. The petitioner has two criminal antecedents as stated in para 3 of the bail petition. The petitioner is neither the owner nor the driver of the said vehicle. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The other co-accused persons have already been granted bail by this court *vide* order dated 06.09.2024 passed in Cr. Misc. No. 44613/2024. 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 nature of allegation against the petitioner, 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, 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. This application stands allowed.

(Chandra Prakash Singh, J)

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