

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46307 of 2024

Arising Out of PS. Case No.-555 Year-2023 Thana- NARHATT District- Nawada

Mithun Kumar @ Mithun Son Of Virendra Ram Resident Of Village -
Daulatpur, P.S. - Narhat, District - Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Mishra

For the Opposite Party/s : Mr.Umanath Mishra

**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 arrest in connection with Narhat P.S. Case No. 555 of 2023 dated 16.11.2023 for the offences punishable u/ss 279, 337, 338, 379, 356, 411 read with Section 34 of the Indian Penal Code and u/s 37(c) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, three unknown miscreants tried to snatch the mobile from the informant's nephew and they also tried to snatch the mobile of Krishnadeo Prasad. One person was apprehended who disclosed the name of the petitioner and the other co-accused persons who fled away from the spot.



4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner was disclosed by the apprehended co-accused person. It is further submitted that the petitioner has no concern with the alleged recovery. The allegation of snatching against the petitioner is ornamental. The other co-accused person has already been granted bail by this court *vide* order dated 27.02.2024 passed in Cr. Misc. No. 10763/2024. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. 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, Nawada in connection with Narhat P.S. Case No. 555 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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