

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 48284 of 2024

Arising Out of PS. Case No.-283 Year-2023 Thana- SAMASTIPUR District- Samastipur

Raju Kumar Son of Poshan Sahni Resident of Village - Rudauli, P.S.-
Mushrigharari, District - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raja Ram Mishra, Adv.

For the Opposite Party/s : Ms. Sharda Kumari, APP

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

ORAL ORDER

2 20-09-2024 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 Samastipur Town P.S. Case No. 283 of 2023 dated 26.10.2023 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act, 2022.

3. As per the prosecution case, total 0.9 litres of illicit liquor was recovered from the motorcycle.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is



made out. The petitioner is neither the owner nor the driver of the said motorcycle. The said motorcycle was not being driven by the petitioner at the time of the alleged occurrence. The petitioner has no concern with the alleged recovery. The name of the petitioner has transpired in the confessional statement of co-accused Pramod Ray. 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 F.I.R., no offence under the said provision is made out.

5. Learned A.P.P. for the State has vehemently opposed the anticipatory bail petition 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 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, Samastipur in connection with Samastipur Town P.S. Case No. 283 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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