

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51616 of 2024

Arising Out of PS. Case No.-418 Year-2023 Thana- WARISNAGAR District- Samastipur

Ajay Kumar Mahto @ Ajay Kumar Son of Ganeshi Mahto R/O Vill.- Raypur,
P.s.- Warisnagar, Dist.- Samastipur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar, Adv.

For the Opposite Party/s : Mr. Md. Anzarul Haque Sahara, 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 Warisnagar P.S. Case No. 418 of 2023 dated 17.11.2023 for the offence/s punishable u/ss 272 and 273 of the IPC and 30(a) (c) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 440 litres of illicit country liquor was recovered from the house of the co-accused Manoj Kumar Mahto.

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 has sprung up in this case on mere suspicion. No incriminating material has been



recovered from the conscious possession of the petitioner. Learned counsel has further submitted that as per FIR, the said recovery was made from the house of one Manoj Kumar Mahto and as per seizure list, the said recovery was made from the house of Vijay Kumar which creates doubt on the prosecution case. The petitioner is also accused in one more criminal case as stated in para 3 of the bail petition. The co-accused has been granted anticipatory bail by this Court vide order dated 31.01.2024 passed in Cr. Misc. No. 1449 of 2024. Learned counsel has submitted that no case is made out against the petitioner. 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 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, Samastipur in connection with Warisnagar P.S. Case No. 418 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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