

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53535 of 2024

Arising Out of PS. Case No.-162 Year-2024 Thana- BARAUNI District- Begusarai

Arvind Kumar Mahto S/o- Shivjee Mahto Resident of village -Musapur P.S-
Samastipur Distt- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sarvottam Kumar, 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
A.P.P for the State.

2. The petitioner is apprehending his arrest in a case in connection with Barauni P.S. Case No. 162 of 2024 dated 01.05.2024 registered for the offences punishable u/s 30(a), 32(2), 32(3), 36, 41(1), 41(2) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1656 litres of illicit foreign liquor was recovered from the *Pick-up van*.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is the owner of the said vehicle but the same was being driven by co-accused, Ram Kumar Rai @ Ram



Kumar Mandal at the time of the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has clean antecedent as stated in para 3 of the bail petition. The co-accused has been granted regular bail by this Court vide order dated 03.07.2024 passed in Cr. Misc. No. 46652 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 the record, let the



above named petitioner, in the event of his/her 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, Begusarai in connection with Barauni P.S. Case No. 162 of 2024, 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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