

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54820 of 2024

Arising Out of PS. Case No.-239 Year-2022 Thana- MANJHAGARH District- Gopalganj

Ashok Sahni S/o- Ramashrey Sahani Village- Mungaraha Ps- Manjhagarh
Dist- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh, Adv.

For the Opposite Party/s : Mr. Mohammed Arif, 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 Manjhagarh P.S. Case No. 239 of 2022 dated 06.08.2022 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. As per the prosecution case, total 201.6 litres of Banti Babli country made liquor was recovered from the place of occurrence which was thrown by the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has three criminal antecedents as stated in para 3 of the bail petition. The petitioner has no concern with the alleged



recovery. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The name of the petitioner has transpired on the basis of disclosure statement of local *chowkidar* before the police. Similarly situated co-accused, namely, Upendra Yadav has already been granted anticipatory bail by this court vide order dated 12.07.2024 passed in Cr. Misc. No. 27589 of 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 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, Gopalganj in connection with Manjhagarh P.S. Case No. 239 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition:-

1. The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the prosecution will be at liberty to move for cancellation of his bail bond.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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