

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57090 of 2024

Arising Out of PS. Case No.-157 Year-2024 Thana- MOTIHARI MUFASIL District- East
Champaran

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1. Ramnath Paswan @ Ramnath S/O Lotan Paswan R/O Village- Raysingha, P.S- Muffasil, Dist.- East Champaran.
 2. Md. Bitu S/O Late Md. Swaif R/O Village- Raysingha, P.S- Muffasil, Dist.- East Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Adv.
For the Opposite Party/s : Mrs. Asha Devi, APP

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

ORAL ORDER

2 20-09-2024 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. Learned counsel for the petitioners submits that during pendency of the case, the petitioner no. 2 has been arrested, therefore, he seeks permission to withdraw the present case with respect to the petitioner no. 2.

3. Permission is accorded.

4. Accordingly, the present anticipatory bail application is dismissed as withdrawn with respect to the petitioner no. 2.

5. So far as the petitioner no. 1 is concerned, he is apprehending his arrest in a case in connection with Muffasil P.S. Case No. 157 of 2024 dated 05.04.2024 registered for the



offences punishable u/s 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

6. As per the prosecution case, total 30 litres of illicit country made liquor was recovered from a plastic sack kept between the co-accused and the petitioner on a motorcycle.

7. 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 name of the petitioner has transpired in this case merely on suspicion. The petitioner is not the owner of the said vehicle and he 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. 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.



8. 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.

9. Considering the aforesaid facts and circumstances of the case, as well as the nature of allegation against the petitioner, let the above named petitioner no. 1, 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, East Champaran at Motihar in connection with Muffasil P.S. Case No. 157 of 2024, 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.



10. The application stands allowed.

(Chandra Prakash Singh, J)

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