

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57071 of 2024

Arising Out of PS. Case No.-14 Year-2024 Thana- BHEJA District- Madhubani

JAWALA PRASAD MUKHIYA @ JAWALA MUKHIYA SON OF
LAXMAN MUKHIYA RESIDENT OF VILLAGE - DARJIYA, P.S. -
MADHEPUR, DISTRICT - MADHUBANI

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ravi Prakash

For the Opposite Party/s : Mr.Veena Kumari Jaiswal

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

ORAL ORDER

2 27-09-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Bheja P.S. Case No. 14 of 2024 dated 28.02.2024, registered for the offences punishable u/ss 272/273/34 of the Indian Penal Code and u/ss 30(a), 33, 36 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 9.900 litres of illicit foreign liquor was recovered from the Maruti Suzuki car and 153 whisky wrapper, 20 litres spirit, packaging machine, 5 litres of foreign liquor made of spirit were recovered from the house of the co-accused Raju Mukhiya.

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 at para 3 of the bail petition. The petitioner has no concern with the alleged recovery rather the recovery has been made from the house of the co-accused, Raju Mukhiya. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted anticipatory bail by this court vide order dated 13.09.2024 passed in Cr. Misc. No. 46712 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 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 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 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 learned Court concerned, Jhanjharpur, District- Madhubani in connection with Bheja P.S. Case No. 14 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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