

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57079 of 2024

Arising Out of PS. Case No.-323 Year-2024 Thana- SAKRA District- Muzaffarpur

Dharmendra Rai @ Dharmendra Kumar @ Dharmendra Ray Son of Umesh Ray Resident of Village- Bishanpur Bakhri, P.S.- Sakra, Dist.- Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar, Adv.
For the Opposite Party/s : Mr. Nirmal Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 23-08-2024 Heard learned counsel for the petitioner and learned A.P.P for the State.

2. The petitioner is apprehending his/her arrest in a case in connection with Sakra P.S. Case No. 323 of 2024 dated 21.06.2024 registered for the offences punishable u/s 272, 273, 420, 467, 468, 471, 34 of the I.P.C. and Section 30(a), 30(d), 36 of Bihar Prohibition and Excise Act and Section 25(1-B)A, 26, 35 of the Arms Act.

3. As per the prosecution case, total 22.500 litres of illicit foreign liquor, some empty bottles and liquor making apparatus were recovered from the mango orchard of the Krishan Kumar and one country made pistol along with one live cartridge was recovered from the possession of the Santosh



Kumar.

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 was disclosed by the apprehended co-accused person who fled away from there. The petitioner has no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. Nothing has been recovered from the conscious possession of the petitioner. The co-accused has been granted bail vide order dated 30.07.2024 passed in Cr. Misc. No. 54836 of 2024. The petitioner has two criminal antecedents in which he is on bail as stated in para 3 of the bail petition. 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, Muzaffarpur in connection with Sakra P.S. Case No. 323 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)

shivam/-

U		T	
---	--	---	--

