

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59212 of 2024

Arising Out of PS. Case No.-83 Year-2024 Thana- MIRGANJ District- Gopalganj

Minku Singh Son Of Tuntun Singh @ Tuntun Kumar Rai @ Tuntun Rai
Village- Badheya, Ps- Mirganj, Dist- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Shahi, Adv.

For the Opposite Party/s : Mr.Pradeep Narain Kumar, APP

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

ORAL ORDER

2 04-10-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Mirganj P.S. Case No. 83 of 2024 dated 06.03.2024 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 186.480 litres of illicit country made liquor was recovered from the two motorcycles.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has five criminal antecedents as stated at 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 vehicles 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. The co-accused person has already been granted regular bail by this court vide order dated 13.05.2024 passed in Cr. Misc. No. 36161 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 the learned Court concerned, Gopalganj in connection with Mirganj P.S. Case No. 83 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition :-

i) 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 bail bond of the petitioner is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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