

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59030 of 2024

Arising Out of PS. Case No.-144 Year-2023 Thana- MUSRIGHRARI District- Samastipur

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Jitendra Kumar @ Nanhe @ Jitendra Singh S/O Nand Kishore Singh R/O
Village- Baghi, P.S- Karpurigram (earstwhile P.S- Samastipur Muffasil),
Distt.- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Suneil Kumar Thakur, Adv.

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

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**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 a case in
connection with Musrigharari P.S. Case No. 144 of 2023 dated
14.09.2023 for the offence/s punishable u/ss 30(a), 32 and 36 of
the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 3519.36 litres of
illicit foreign liquor was recovered from three different vehicles
near the Waste Management office.

4. Learned counsel for the petitioner has submitted
that the petitioner has falsely been implicated in this case. No
incriminating material has been recovered from the conscious
possession of the petitioner. The said vehicle was not being



driven by the petitioner at the time of the alleged occurrence. The petitioner has no concern with the alleged recovery. The petitioner has eleven other criminal cases as stated in para 3 of the bail petition. Learned counsel has further submitted that no case is made out against the petitioner. The co-accused person has already been granted anticipatory bail by this court vide order dated 06.12.2023 passed in Cr. Misc. No. 75091 of 2023. 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, Samastipur in connection with Musrigharari P.S. Case No. 144 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition/s:-

(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.

(ii) If the petitioner is found involved in similar nature of offence in future, the prosecution will be at liberty to move for cancellation of his bail bonds.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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