

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58996 of 2024

Arising Out of PS. Case No.-149 Year-2024 Thana- MAHARAJGANJ District- Siwan

1. Kanhaiya Chaudhary Son of Chandrama Chaudhary R/o Village- Ramapali, P.S.- Maharajganj, District- Siwan
2. Ramesh Chaudhary Son of Ramashish Chaudhary R/o Village- Ramapali, P.S.- Maharajganj, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajiv Kumar, Adv.

For the Opposite Party/s : Mr.Pronoti Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 04-10-2024 Heard learned counsel for the petitioners and learned A.P.P for the State.

2. Learned counsel for the petitioners has further submitted that the petitioner no. 1, Kanhaiya Chaudhary has already died and as such the present bail application with respect to the petitioner no. 1 has become infructuous and accordingly, he seeks permission to withdraw the anticipatory bail application of the petitioner no. 1.

Permission is accorded.

Accordingly, the present anticipatory bail application is dismissed as withdrawn with respect to the petitioner no. 1.

3. The Petitioner is apprehending his arrest in connection with Maharajganj P.S. Case No. 149 of 2024 dated 25.04.2024



registered for the offences punishable u/ss 272, 273 and 188 of the Indian Penal Code and u/ss 30(a), 30 (c), 30(d), 36, 38, 47 of Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 105 litres of country made liquor and one mobile phone were recovered from the house of the co-accused person.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner Ramesh Chaudhary has no criminal antecedent as stated at para 3 of the bail petition. The name of the petitioner has sprung up in the confessional statement of the co-accused, Chandan Chaudhary. It is further submitted that the petitioner 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 24.06.2024 passed in Cr. Misc. No. 42725 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.

6. 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.

7. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioner, let the above named petitioner Ramesh Chaudhary, 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, Siwan in connection with Maharajganj P.S. Case No. 149 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

Gautam/-

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

