

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59354 of 2024

Arising Out of PS. Case No.-40 Year-2024 Thana- KHAGARIA RAIL P.S. District- Khagaria

Haidal Yadav @ Sachin Kumar Son of Gulo Yadav R/V-Village- Hiratol Ward
no 1, Sahebpur, Kamal, Dist- Begusari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Yadav, Adv.

For the Opposite Party/s : Mr. Prem Kumar Jha, 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 a case in connection with Khagaria Rail P.S. Case No. 40 of 2024 dated 16.04.2024 for the offence/s punishable u/ss 353, 307 read with Section 34 of the Indian Penal Code, Section 27 of the Arms Act, Section 141 of the Railway Act and Section 30(a) and 45 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 106.2 litres of illicit foreign liquor along with two empty cartridges was recovered from the bag.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. No incriminating material has been recovered from the conscious possession of the petitioner. The name of the petitioner has transpired in this case merely on suspicion. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The co-accused has been granted bail by this Court vide order dated 22.07.2024 passed in Cr. Misc. No. 48086 of 2024. 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, Khagaria in connection with Khagaria Rail P.S. Case No. 40 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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