

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63314 of 2024

Arising Out of PS. Case No.-120 Year-2024 Thana- AKHODHIGOLA District- Rohtas

Santosh Kumar @ Santosh Kumar Singh Son of Baijanath Singh Resident of Village/Mohall- Company Saray Sasaram, P.S.- Sasaram, District- Rohtas (Sasaram)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Jai Narain Thakur, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 20-11-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Akorhigola P.S. Case No. 120 of 2024 dated 16.05.2024 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 108 litres of illicit beer was recovered from the *Xylo Car* and 156 litres of illicit beer and 17.280 litres of illicit foreign liquor were recovered from the house of the co-accused, *Om Prakash Mahto*.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in



para 3 of the bail petition. The petitioner has been made accused in this case only because he is the owner of the Xylo vehicle but the same was not being driven by the petitioner at the time of the alleged recovery. Nothing 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 29.07.2024 passed in Cr. Misc. No. 53908 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, Rohtas at Sasaram, in connection with Akorhigola P.S. Case No. 120 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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