

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65949 of 2023

Arising Out of PS. Case No.-749 Year-2023 Thana- Excise P.S. District- Muzaffarpur

Baidhnath Mahto @ Baijnath Mahto Son Of Ramsevak Mahto Resident Of
Village - Akopur, P.S. - Cheriya Bariyarpur, District - Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hari Kishore Thakur, Adv
For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

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

ORAL ORDER

6 10-05-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Excise P.S. Case No. 749 of 2023 dated 11.04.2023 of the offences punishable u/s 30(a) and 32 (3) of the Bihar Prohibition and Excise Act 2018.

3. Earlier the petitioner was granted provisional bail vide order dated 18.10.2023 and learned counsel for the petitioners seeks confirmation of the provisional bail granted to the petitioners.



4. As per the prosecution case, total 207.360 litres of illicit foreign liquor was recovered from a godown and 2.700 litres of illicit liquor was recovered from the *Bolero*.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submits that the co-accused has already been granted Anticipatory Bail by the co-ordinate bench of this Court vide order dated 27.02.2024 passed in Cr. Misc. No. 9226 of 2024. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is the owner of the said vehicle but the same was not being driven by him at the time of the alleged recovery. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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, the provisional bail granted to the petitioner vide order dated 18.10.2023 is hereby confirmed in connection with Excise P.S. Case No. 749 of 2023 to the satisfaction of learned court concerned, Muzaffarpur.

8. This application stands allowed.

(Chandra Prakash Singh, J)

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