

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67375 of 2024

Arising Out of PS. Case No.-189 Year-2023 Thana- DAUDNAGAR District- Aurangabad

Raja @ Suman Kumar Son of Ram Babu Ray Resident of Vilalge/ Mohalla-
Nandpuri, P.S. -Sadar, Bhagwanpur, Distt.- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

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

ORAL ORDER

2 11-12-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Daudnagar P.S. Case No. 189 of 2023 dated 03.04.2023 registered for the offences punishable under Section 120B of the I.P.C. and u/ss 30(a), 32 and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 1698.12 litres of illicit Indian made foreign liquor was recovered from the truck and 86.4 litres of illicit Indian made foreign liquor was recovered from the car.

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



this case. The petitioner has two criminal antecedents as stated in para 3 of the bail petition. The petitioner is neither the owner nor the driver of the said vehicle and he 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 22.05.2023 passed in Cr. Misc. No. 31438 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 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, Aurangabad in connection with Daudnagar P.S. Case No. 189 of 2023, 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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