

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69179 of 2024

Arising Out of PS. Case No.-67 Year-2024 Thana- ANDHRAMATH District- Madhubani

Girdhari Yadav, (M), aged about 43 years, S/O Ganeshi Yadav, R/O Village-
Mahdeva, P. S. - Laukahi, District- Madhubani.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. N.K. Agarwal, Sr. Advocate and Mr. Pramod Kumar Yadav, Advocate
For the Opposite Party	:	Mrs. Sharda Kumari, A.P.P.

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

ORAL ORDER

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

2. The petitioner is apprehending his arrest in connection with G.R. Case No. 34 of 2024, arising out of Andharamath P.S. Case No. 67 of 2024 dated 13.04.2024 registered for the offences punishable under Sections 272, 273 read with Section 34 of the I.P.C., Sections 30(a), 41 of the Bihar Prohibition and Excise (Amendment) Act, 2022 and Sections 20(b)(ii)(B) and 25 of the N.D.P.S. Act.

3. As per the prosecution case, police saw that a Scorpio vehicle was crossing Indo-Nepal Border and on seeing police, the accused persons left the said vehicle and started fleeing. The police apprehended the co-accused Dev Nandan



Kumar Yadav who disclosed the name of the co-accused as Amrendra Kumar Yadav as escaped person from the Scorpio vehicle. On search, total 828 litres of country made Mamashree liquor and 17.13 kgs., of Ganja were recovered from the Scorpio vehicle. The apprehended co-accused person has also disclosed that the aforementioned items belongs to Girdhari Yadav (petitioner) and he worked for him.

4. Learned senior counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is neither the owner nor the driver of the seized Scorpio vehicle. He was not present at the place of occurrence. The petitioner has no concern either with the seized items or with the seized vehicle or with the co-accused persons. The name of the petitioner has come in the present case merely on the basis of the confessional statement of the apprehended co-accused person Dev Nandan Kumar Yadav who is the co-villager of the petitioner which has got no evidentiary value in the eye of law. Except the confessional statement of the co-accused Deo Nandan Kumar Yadav, there is no other substantive evidence to suggest the implication of the petitioner in the present case. No incriminating article has been recovered either from exclusive or conscious possession or



landed property of the petitioner. The alleged recovery has been made from a public place i.e., canal near the Suba Tall Excise Check Post in the jurisdiction of concern police station. There is no statutory compliance of Section 50 of the N.D.P.S. Act and 100 of the Cr.P.C. The seized contraband is less than commercial quantity. The petitioner has one criminal antecedent in which he is on bail as stated in paragraph no. 3 of the bail application.

5. Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner and submitted that 828 litres of country made Mamashree liquor and 17.13 kgs., of ganja were recovered from the Scorpio vehicle and the co-accused Deo Nandan Kumar Yadav started fleeing away from the said vehicle and later on, he was apprehended by police who disclosed the name of the co-accused person Amrendra Kumar Yadav @ Amrendra Kumar as escaped person from the Scorpio vehicle and he has also disclosed that the aforementioned seized items belongs to Girdhari Yadav (petitioner) and he worked for him. Learned A.P.P. for the State has further placed reliance on an order of the Hon'ble Supreme Court in the case of *Anarul SK Vs. The State of West Bengal*, passed in *S.L.A (Crl.) No(s). 12621/2024, arising out of impugned final judgment and order*



dated 08.07.2024 in CRM (NDPS) No. 943/2024 passed by the High Court at Calcutta.

6. Considering the aforesaid facts and circumstances of the case and finding substance in the contention of the learned A.P.P. for the State, this Court is not inclined to grant anticipatory bail to the petitioner and the same is rejected with a direction to the petitioner to surrender before the learned court below within a period of six weeks from the date of receipt/production of a copy of this order and the learned court below may consider the prayer for regular bail of the petitioner in accordance with law and on its own merits without being prejudiced of the order of this Court in connection with G.R. Case No. 34 of 2024, arising out of Andhramath P.S. Case No. 67 of 2024, pending in the court of learned Sessions Judge, Madhubani.

7. Accordingly, the anticipatory bail application of the petitioner stands rejected.

(Chandra Prakash Singh, J)

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