

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72479 of 2024

Arising Out of PS. Case No.-163 Year-2024 Thana- GORIAKOTHI District- Siwan

Ashwani Kumar Son of Shyam Sundar Prasad Resident of mohalla - Kath Ka
Pul, P.S.- Mehandiganj, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rudra Deo
For the Opposite Party/s : Mr.Indu Kumari Srivastava

**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 Goriyakothi P.S. Case No. 163 of 2024 dated 04.07.2024 registered for the offence/s punishable u/s 317(2) of the Bhartiya Nyaya Sanhita 2023 and section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 696.600 litres of illicit foreign liquor was recovered from the Truck

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is the owner of the said seized vehicle but the same was not being driven by him at the time of the



alleged recovery. The petitioner has no concern with the alleged recovery. The petitioner has four criminal antecedents as stated in para 3 of the bail petition. Similar situated co-accused person has already been granted regular bail vide order dated 05.08.2024 passed in Cr. Misc. No. 55862 of 2024. 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.

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, Siwan in connection with Goriyakothi P.S. Case No. 163 of 2024 subject to conditions as laid down under section 482(2) of the B.N.S.S., with further condition/s:-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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