

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73759 of 2024

Arising Out of PS. Case No.-235 Year-2021 Thana- KATEYA District- Gopalganj

Namuna Sah @ Namuna Khatik Son of Vidya Sah @ Bidya Sah @ Vidya Khatik R/O-Village- Koisa Khurd (Kuisa Khurd), P.S -Kateya, District-Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Lokesh Kumar Singh, Adv.

For the Opposite Party/s : Mr.Surendra Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 23-10-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Kateya P.S. Case No. 235 of 2021 dated 03.07.2021 for the offences punishable u/s 414 read with Section 34 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, during the vehicle checking by the police party, they saw that five miscreants riding on three motorcycles with sacks. On seeing the police party, the accused persons tried to flee away but police apprehended four miscreants. On search, 12.60 litres of illicit country made liquor was recovered from the motorcycle left by



the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has four criminal antecedents as stated at para 3 of the bail petition. The petitioner is not the owner of the said vehicle and he has no concern with the alleged recovery. The name of the petitioner was disclosed by the apprehended co-accused persons. Nothing 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, Gopalganj in connection with Kateya P.S. Case No. 235 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition :-

(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. The application stands allowed.

(Chandra Prakash Singh, J)

Gautam/-

U		T	
---	--	---	--

