

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78172 of 2023

Arising Out of PS. Case No.-157 Year-2023 Thana- AGIAON BAZAR District- Bhojpur

SUNIL SINGH SON OF LATE SUMER SINGH RESIDENT OF VILLAGE
- KATARIYA, P.S. - AGIAON BAZAR, DISTRICT - BHOJPUR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Diwakar, Advocate Mr. Sudhakar Ranjan, Advocate Mr. Prashant Sharma, Advocate Mr. Vikash Bharti, Advocate Mr. Shivam Kumar, Advocate Mr. Anuranjan Patel, Advocate
For the Opposite Party/s :		Mr.Lalan Kumar

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

ORAL ORDER

2 02-01-2024 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

3. The Petitioner is apprehending his arrest in connection with Agiaon Bazar P.S. Case No. 157 of 2023 dated 24.07.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act and Sections ¾ of the Bihar Mahuwa Flower Act.

4. As per the prosecution case, total 1.440 litres of



illicit liquor, 1050 kg gur and 10 kg mahuwa were recovered from a tempo.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. The petitioner is neither owner nor driver of the said vehicle. 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 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, Bhojpur at Ara in connection with Agiaon Bazar P.S. Case No. 157 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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