

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80299 of 2023

Arising Out of PS. Case No.-1076 Year-2023 Thana- AHIYAPUR District- Muzaffarpur

Pawan Rai Son Of Yogi Rai R/O Village- Fatehpur, P.S.- Ahiyapur, District-
Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar

For the Opposite Party/s : Mr.Md. Shakir Ahmad

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

ORAL ORDER

2 09-01-2024 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 Ahiyapur P.S. Case No. 1076 of 2023 dated 29.08.2023 for the offences punishable under Sections 420, 467, 468, 471, 120B of the IPC and Sections 30(a)(b), 32(ii)(iii), 36, 41(i)(ii) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 3086.640 litres of illicit liquor has been recovered from the truck and a motorcycle. The co-accused person Vikash Kumar disclosed the



name of the petitioner.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is accused in six other criminal cases which are related to similar nature of offence and he is on bail in all the aforesaid cases as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The petitioner is neither owner nor driver of the said vehicles. 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, Muzaffarpur in connection with Abiyapur P.S. Case No. 1076 of 2023, 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 bonds of the petitioner is liable to be cancelled.

8. This application stands allowed.

(Chandra Prakash Singh, J)

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