

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78728 of 2023

Arising Out of PS. Case No.-231 Year-2023 Thana- SINGHESHWAR District- Madhepura

Rohit Mandal @ Rohit Kumar S/O Bhikhan Mandal R/O Village- Gauripur
Panda Tola Singhashwar, P.S- Singhashwar, Distt.- Madhepura.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Uday Chand Prasad, Adv.

For the Opposite Party/s : Mr.Sanjay Kumar Sharma, APP

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

ORAL ORDER

2 04-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Singhashwar P.S. Case No. 231 of 2023 dated 12.08.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act and u/s 21(c) of the N.D.P.S. Act.

3. As per the prosecution case, total 22 pieces of 100 ml of Codeine Cough Syrup was recovered from the motorcycle.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. Learned counsel has further submitted that the



petitioner has no concern with the alleged recovery. Nothing has been recovered from the possession of the petitioner, hence no case is made out. It is further submitted that the seized contraband is not of commercial quantity. The petitioner is not the owner of the said motorcycle and the same was not being driven by the petitioner at the time of alleged incident. 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. The seized contraband is commercial quantity.

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, Madhepura in connection with Singhashwar P.S. Case No. 231 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 prosecution will be at liberty to move for cancellation of his bail bond.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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