

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80723 of 2023

Arising Out of PS. Case No.-139 Year-2023 Thana- PANDAUL District- Madhubani

Shankar Saday @ Shankar Sadai, Son of Vauan Saday Resident of Village -
Barahgoriya, Mushari Tola, P.S. - Pandaul, District - Madhubani.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar, A.P.P.

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

ORAL ORDER

2 11-01-2024 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 Pandaul P.S Case No. 139 of 2023, G.R.
No. 996 of 2023 dated 25.06.2023 for the offences
punishable u/ss 272, 273 of Indian Penal Code and 30(a) of
the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 180 litres of
illicit liquor was recovered from the motorcycle.



5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that from bare perusal of the F.I.R., it would be evident that the petitioner has only been made accused in this case on the basis of secret information received by police. Learned counsel has further submitted that the petitioner is neither owner nor the driver of the said motorcycle. The petitioner has no criminal antecedent 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. 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, Madhubani in connection with Pandaul P.S Case No. 139 of 2023, G.R. No. 996 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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