

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83971 of 2023

Arising Out of PS. Case No.-367 Year-2023 Thana- DALSINGHSARAI District- Samastipur

Vidiyo Ray Son of Ram Charitra Rai @ Chalitar Rai R/o vill - Samartha, P.S.
- Bibhutipur, Distt. - Samastipur

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar No1, Advocate.

For the Opposite Party/s : Mr. Akbar Ali, A.P.P.

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

ORAL ORDER

2 19-01-2024 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 Dalsinghsarai P.S Case No. 367 of 2023 dated 13.09.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 793.96 litres of illicit liquor was recovered from a truck and a Maruti car.

5. Learned counsel for the petitioner has submitted



that the petitioner has falsely been implicated in this case. It is further submitted that the petitioner is neither the owner nor the driver of the car and truck in question. The co-accused has already granted anticipatory bail by the Coordinate Bench of this court vide order dated 29.11.2023 passed in Cr. Misc. No. 77189 of 2023. The petitioner has eight criminal antecedents 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, Samastipur in connection with Dalsinghsarai P.S Case No. 367 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 bond of the petitioner is liable to be cancelled.

(Chandra Prakash Singh, J)

Nilmani/-

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