

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84630 of 2023

Arising Out of PS. Case No.-91 Year-2023 Thana- LAHERIMUHALLA District- Nalanda

Tun Tun Miya, Son Of Md. Faku Miya, R/O Mohalla- Khashganj Near
Mjathina Masjid, P.S.- Sohsarai, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Virendra Prasad, Adv.

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala, APP

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

ORAL ORDER

2 23-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Laheri P.S. Case No. 91 of 2023 (Nalanda) dated 07.02.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 34.875 litres of illicit foreign liquor was recovered from the possession of the co-accused.

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. The name of the petitioner was disclosed by the



apprehended person. It is further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from the possession of the co-accused person. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. 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.

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, Nalanda in connection with Laheri P.S. Case No. 91 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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