

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85419 of 2023

Arising Out of PS. Case No.-77 Year-2023 Thana- AUANGARI District- Nalanda

Karu Choudhari S/O Krishna Choudhari R/O Village- Badki Gamahar, P.S.-
Aungari, District- Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dimpal Kumari, Adv.

For the Opposite Party/s : Mr.Md. Matloob Rab, APP

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

ORAL ORDER

2 24-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Aungari P.S. Case No. 77 of 2023 dated 21.07.2023 for the offences punishable u/ss 341, 323, 324, 307, 333 and 504 of the Indian Penal Code and u/s 45 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, on secret information, the petitioner was creating furore (nuisance) after drinking and selling liquor then the informant and the police personnel reached the place of occurrence and saw that the petitioner was running with a sharp *pasuli*. The police personnel try to apprehend the petitioner but the petitioner started abusing and scuffling. In the course of scuffle, the petitioner assaulted on



the neck of ASI, Vijay Shankar Prasad with pasuli due to which he sustained hand injury. Thereafter, the petitioner fled away from the spot.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has two criminal antecedents as stated in para 3 of the bail petition. The petitioner has no concern with the alleged offence. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. The injury of the injured has not been mentioned in the impugned order as stated in para 14 of the bail petition. 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, Biharsharif, Nalanda in connection with Aungari P.S. Case No. 77 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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