

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82569 of 2023

Arising Out of PS. Case No.-336 Year-2018 Thana- SONO District- Jamui

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UMESH KUMAR SHEKHAR Son of Balmukund Shekhar R/o Mohalla -
Burm, P.S. - Burmu, Distt. - Ranchi (Jharkhand)

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

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For the Petitioner/s :	Mr.Gyanendra Kumar Singh, Adv.
For the Opposite Party/s :	Mr.Md. Nazir Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 15-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Sono P.S. Case No. 336 of 2018 dated 09.12.2018 for the offences punishable u/ss 272 and 273 of the Indian Penal Code and u/ss 30(a) and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 97.2 litres of illicit foreign liquor was recovered from a dala of the Tata 407 vehicle.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner has transpired in this



case only on the basis of the owner of the said vehicle but the said vehicle has already been sold by the petitioner to one Vijay Kumar Singh (Annexure-2). It is further submitted that the petitioner has no concern with the alleged recovery. 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, Jamui in connection with Sono P.S. Case No. 336 of 2018, 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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