

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84755 of 2023**

Arising Out of PS. Case No.-246 Year-2018 Thana- MANIYARI District- Muzaffarpur

Avinash Singh Son of Chandrika Singh R/o vill - Maksudpur, P.S. - Maniyari,
Distt. - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar @ S.K., Adv.

For the Opposite Party/s : Mrs.Rita Verma, 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 Maniyari P.S. Case No. 246 of 2018 dated 12.08.2023 for the offences punishable u/ss 147, 148, 149, 341, 323, 307, 353, 332, 427, 504 and 506 of the Indian Penal Code and u/s 30(a), 38 and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, on secret information about concealing illicit liquor by the co-accused Baliram Singh in his baithka in village Masudpur, the informant along with other police personnel reached there and on search, total 670 litres of illicit Indian made foreign liquor was recovered. When after loading the said liquors in police vehicle proceeded then 150-200 male and female persons surrounded the police vehicle and started to abuse and damaged the police vehicle by pelting



stone and also tried to snatch arms of the police personnel. Thereafter, in self defence, police also fired then mob started to flee away. On query, the informant came to know the name of 27 persons including the petitioner out of the said mob.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has five criminal antecedents as stated in para 3 of the bail petition. There is general and omnibus allegation against the petitioner. The name of the petitioner has sprung up in the confessional statement of the apprehended persons and local Chowkidar. It is further submitted that the petitioner has no concern with the alleged recovery and the alleged offence. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. The co-accused persons have already been granted anticipatory bail by the Coordinate Bench of this court vide order dated 17.08.2021 passed in Cr. Misc. No. 148 of 2021. 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, Muzaffarpur in connection with Maniyari P.S. Case No. 246 of 2018, 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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