

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2220 of 2024

Arising Out of PS. Case No.-177 Year-2022 Thana- BAKHTIYARPUR District- Patna

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Umesh Rai @ Aaru son of Balak Rai RESIDENT OF VILLAGE CHIRAIYA,
P.S.- BAKHTIYARPUR, DIST- PATNA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Bihari Singh

For the Opposite Party/s : Mr.Anand Kishore Choudhary

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 02-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bakhtiyarpur P.S. Case No. 177 of 2022, dated 04.09.2023 for the offences punishable under Section 272 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 30 litres of illegal illicit desi chulai has been recovered from the bank of the Ganga river.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. Petitioner has one criminal antecedent as stated in para



3 of the bail petition in which he is on bail. The name of the petitioner was disclosed by the local choukidar. 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 APP 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, Barh in connection with Bakhtiyarpur P.S. Case No. 177 of 2022, 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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