

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86530 of 2023

Arising Out of PS. Case No.-132 Year-2019 Thana- DERNI BAZAR District- Saran

Shanti Bhushan Bharti, male, aged about 41 years, Son of Dhrupdev Bharti
Resident of Village - Mohabbat Nath Ke Mathiya, Chanchaura, P.S.- Derni,
District - Saran

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shailendra Singh, Advocate.

For the Opposite Party/s : Mr. Khurshid Anwar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 30-01-2024 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, if any,

within a period of three weeks from today.

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

3. The petitioner is apprehending his arrest in
connection with Derni P.S Case No. 132 of 2019 dated
01.08.2019 for the offences punishable u/ss 30 and 30(a) of
the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 2043.360
litres of illicit liquor was recovered from the truck.

5. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. It is further submitted that the apprehended person disclosed the name of the petitioner. Learned counsel has further submitted that the petitioner is neither the owner nor the driver of the said vehicle. The co-accused has already granted anticipatory bail by the Coordinate Bench of this court vide order dated 20.05.2022 passed in Cr. Misc No. 60562 of 2021. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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.

6. 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.

7. 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, Saran in connection with Derni P.S Case No. 132 of 2019, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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