

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.571 of 2024

Arising Out of PS. Case No.-671 Year-2023 Thana- MAHUA District- Vaishali

Akhilesh Kumar son of Rameshwar Rai Resident of villae Mahua Singh Ray
PS Mahua, Dist.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 4893 of 2024

Arising Out of PS. Case No.-671 Year-2023 Thana- MAHUA District- Vaishali

Deepak Kumar @ Deeplal son of Lal Babu Ray Resident of Village Piroi PS
Goraul District Vaishali

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 571 of 2024)

For the Petitioner/s : Mr.Pratima Kumari

For the Opposite Party/s : Mr.Abhay Kumar Roy

(In CRIMINAL MISCELLANEOUS No. 4893 of 2024)

For the Petitioner/s : Mr.Pratima Kumari

For the Opposite Party/s : Mr.Abhay Kumar Roy

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 31-01-2024 Heard learned counsel for the petitioners and learned
Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in a case
in connection with Mahua P.S. Case No. 671 of 2023 dated
16.10.2023 registered for the offences punishable u/ss 272, 273,
420, 467, 468/34of the Indian Penal Code and u/ss 30(a), 32(ii)



(iii), 41(i)(ii) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 2546.64 litres of illicit liquor was recovered from a truck and a pick-up van vehicle parked near the Pacs Godown.

4. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioners have no criminal antecedent as stated in para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioners hence, no case is made out against the petitioners. It is further submitted that the petitioners is neither the owner nor the driver of the said vehicles and the petitioners have no concern with the alleged recovery. The other co-accused persons have already been granted bail by *this Court* order dated 21.12.2023 passed in Cr. Misc. No. 84037 of 2023. 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 petitioners 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 petitioners, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned court concerned, Vaishali at Hajipur in connection with Mahua P.S. Case No. 671 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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