

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3392 of 2024

Arising Out of PS. Case No.-190 Year-2023 Thana- GOPALPUR District- Gopalganj

NADEEM AHMAD S/O- AMIRUDDIN AHMAD R/O- VILL- CHHAPIYA,
WARD NO. 24 PS- GOPALGANJ, DIST- GOPALGANJ.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjeet Patel

For the Opposite Party/s : Mr.Nitya Nand Tiwary

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 09-02-2024 Learned counsel for the petitioner is directed 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 Gopalpur P.S. Case No. 190 of 2023, dated 08.08.2023, for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 873 litres of country made liquor has been recovered from the Scorpio and motorcycle. Two Vivo Mobiles and one IMEI were also recovered from the place of occurrence.



5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. No incriminating material has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. The petitioner is the owner of the said motorcycle but at the time of the alleged occurrence, the said motorcycle was not being driven by 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.

6. 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.

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, Gopalganj in connection with Gopalpur P.S. Case No. 190 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

Ranjeet/-

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