

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86176 of 2023

Arising Out of PS. Case No.-138 Year-2022 Thana- MOTIHARI MUFASIL District- East
Champaran

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Ajay Kumar S/O Sendu Mukhiya Village Hasuaha ps mufasil District East
Champaran

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Brajesh Kumar Singh, Adv.
For the Opposite Party/s : Mr.Surendra Kumar, APP

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

ORAL ORDER

2 29-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Muffasil P.S. Case No. 138 of 2022 dated 27.02.2022 for the offences punishable u/ss 30(b), 32 and 41(i) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1000 litres of raw material of liquor was recovered from the bank of the Sikrahana river.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedents as stated in para 3 of the bail petition. The name of the petitioner was disclosed by local



Chowkidar. It is further submitted that the petitioner has no concern with the alleged recovery. 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 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,
East Champaran, Motihari in connection with Muffasil P.S. Case
No. 138 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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