

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4543 of 2024

Arising Out of PS. Case No.-163 Year-2023 Thana- KUDHNI District- Muzaffarpur

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Vishal Kumar @ Vishal Rai son of Naresh Kumar @ Naresh Rai Village-
Chandrahiya Ps- Chandrahia Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shashi Bhushan Kumar

For the Opposite Party/s : Mr.Yogendra Kumar Singh

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

ORAL ORDER

2 13-02-2024 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 Kudhani (Turki OP) P.S. Case No. 163 of 2023,
dated 10.04.2023 for the offences punishable under Sections
272, 273 of the Indian Penal Code and under section 30(a) of
the Bihar Prohibition and Excise Act.

4. As per prosecution case, total 333.00 litres of illicit
foreign liquor was recovered from the field.

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. Learned counsel has further submitted that the recovery is made from open field of Rigan Rai. The name of the petitioner has transpired only on the secret information. Nothing incriminating material has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. The petitioner was not present at the place of occurrence. 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, Muzaffarpur in connection with Kudhani (Turki OP) P.S. Case No. 163 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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