

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9223 of 2024

Arising Out of PS. Case No.-149 Year-2022 Thana- SURSAND District- Sitamarhi

Manohar Mandal @ Manohar Kumar S/O NAGENDRA MANDAL
VILLAGE- HARARI DULARPUR WARD NO. 2, PS. SURSAND, DIST.
SITAMARHI.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajiv Ranjan

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala

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

ORAL ORDER

2 22-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Learned counsel for the petitioner is permitted to
make necessary correction in the 3rd para of the bail petition in
course of the day.

3. The petitioner is apprehending his/her arrest in a
case in connection with Sursand P.S. Case No. 149 of 2022
dated 25.03.2022 for the offence/s punishable u/s 414 of the IPC
and 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 93.9 litres of
illicit Nepali Saufi liquor was recovered from the motorcycle
and the road side.

5. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The petitioner is neither the owner nor the driver of the said motorcycle. The name of the petitioner has transpired on mere suspicion. The petitioner has no concern with the alleged recovery. The petitioner has one more criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that 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 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 material available on record, 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, Sitamarhi in connection with Sursand P.S. Case No. 149 of 2022, 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)

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