

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2618 of 2024

Arising Out of PS. Case No.-140 Year-2023 Thana- BHAGWANPUR District- Vaishali

Dilip Kumar Son of Vinod Ray R/o vill - Warishpur Mal @ Warispur, P.S. -
Bhagwanpur, Distt.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kunwar Ajit Singh, Advocate

For the Opposite Party/s : Mr. Asha Devi, APP

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

ORAL ORDER

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

2. The Petitioner is apprehending his arrest in connection with Bhagwanpur P.S. Case No. 140 of 2023 dated 13.06.2023 for the offences punishable u/s 120 B, 420 of Indian Penal Code and Section 420, 414, 467, 120 B of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1522.77 litres of illicit Indian made foreign liquor was recovered from the truck and car.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has four criminal cases stated at para 3



of the bail petition in which he is on bail in all the four cases. The petitioner has no concern with the said vehicle and the same was not being driven by the petitioner at the time of the alleged recovery. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The Co-accused persons have already been granted anticipatory bail by the co-ordinate Bench of this Court vide order dated 07.10.2023 passed in Cr. Misc. No. 59919 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 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, Vaishali at Hajipur in connection with Bhagwanpur P.S. Case No. 140 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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