

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.878 of 2024

Arising Out of PS. Case No.-34 Year-2022 Thana- BIKRAM District- Patna

Deepak Kumar S/O- Late Balistar Yadav village Painapur, Ps- Bikram Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Sinha, Adv.

For the Opposite Party/s : Mr.Md. Shakir Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 31-01-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bikram P.S. Case No. 34 of 2022 dated 29.01.2022 for the offences punishable u/ss 147, 148, 149, 341, 323, 307, 353, 504 and 338 of the Indian Penal Code and u/s 45 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, on secret information, the informant along with the police personnel reached the place of occurrence then the accused persons started to pelt stone and brick on the police personnel. The accused persons are alleged to have caused hindrance in discharge of official duties of the police personnel.



4. 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. There is general and omnibus allegation against the petitioner. It is further submitted that the petitioner has no concern with the alleged offence. 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, Patna in connection with Bikram P.S. Case No. 34 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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