

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4823 of 2024

Arising Out of PS. Case No.-284 Year-2023 Thana- MAHNAR District- Vaishali

Daya Nand Chaudhary @ Deva Chaudhary @ Devendra Kumar Chaudhary
Son Of Late Balli Chaudhary@ Ram Bali Chaudhary Resident Of Village -
Lawapur, P.S. - Mahnar, District - Vaishali

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Singh

For the Opposite Party/s : Mr. Arvind Kumar Pandey (App)

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 Mahnar P.S. Case No. 284/2023, dated 16.10.2023, for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

4. As per prosecution case, total 22 litres of country made liquor has been recovered near the house of the petitioner on the roof of sheed (in the dalan).

5. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal antecedent of similar nature as stated in para 3 of the bail petition in which he is on bail. He further submits that the liquor was seized from the roof of dalan which was used by all family members. No incriminating material 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.

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, Vaishali at Hajipur in connection with Mahnar P.S. Case No. 284/2023, 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)

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