

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7974 of 2024

Arising Out of PS. Case No.-390 Year-2021 Thana- AHYAPUR District- Muzaffarpur

Ashok Rai @ Ashok Ray Son Of Vindeshwar Rai Resident Of Village-Unsar
Baliya, P.S.-Bochahan, District-Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Adv.

For the Opposite Party/s : Mr. Ajit Kumar, APP.

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

ORAL ORDER

2 21-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in connection with Ahiyapur P.S. Case No. 390 of 2021 dated 18.06.2021 for the offences punishable u/s 272, 273, 420, 467, 468, 471, 414, 120(B)/34 of the IPC and u/s 30(a), 36, 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1869.84 litres of illicit foreign liquor was recovered from the parcel van.

4. 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 vehicle. The said vehicle was not being driven by the petitioner at the time of the alleged occurrence. The recovery was made from an open place that is accessible to anyone. The petitioner has no concern with the alleged recovery or the seized van. The name of the petitioner has transpired in the confessional statement of the co-accused persons Amod Sah (driver) and Murli Manohar(co-driver). The petitioner has no 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.

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 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, Muzaffarpur in connection with Ahiyapur P.S. Case No. 390 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedures.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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