

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3065 of 2024

Arising Out of PS. Case No.-136 Year-2023 Thana- PAHARPUR District- East Champaran

Thakur Patel Son Of Bhuli Patel @ Bhuli Raut R/O Village- Baluon Tharhati,
P.S.- Paharpur, Dist.- East Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh

For the Opposite Party/s : Mr.Dr. Ajeet Kumar

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

ORAL ORDER

2 05-02-2024 Learned counsel for the petitioner is permitted 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 Paharpur P.S. Case No. 136 of 2023, dated 15.04.2023 for the offences punishable under Sections 304, 308, 328, 201, 34 of the Indian Penal Code and under sections 30(a), 34, 37, 41 of the Bihar Prohibition and Excise00 Amendment Act, 2018 has been added.

4. As per the prosecution case, total 2 litres of country made liquor has been recovered from the village of the



petitioner. The police got information that due to intake of his liquor some persons died while some persons are admitted in the hospital.

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 as stated in para 3 of the bail petition in which he is on bail. The petitioner is not named in the F.I.R. The wife of the petitioner is already taken into the custody. The statement of Ravish Kumar under section 164 Cr.P.C. did not make any case 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, East Champaran in connection with Paharpur P.S. Case No. 136 of 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)

Ranjeet/-

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