

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76055 of 2024

Arising Out of PS. Case No.-545 Year-2023 Thana- BASANTPUR District- Siwan

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Rajan Kumar Mahto S/o- Late Suresh Mahto Village- Khoripakar, P.S.
Basantpur, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Javed Aslam, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 07-02-2025 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 Basantpur P.S. Case No. 545 of 2023 dated 20.02.2024 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 20 litres of illicit country-made Mahuwa liquor and 3.375 illicit English liquor were recovered from the Bathan kept in a plastic bag.

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 recovery was made



from an open place that was accessible to anyone. The petitioner is not the owner of the said Bathan. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The similarly situated co-accused persons have been granted bail by this Court vide order dated 02.04.2024 passed in Cr. Misc. No. 21634 of 2024. 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, Siwan in connection with Basantpur P.S. Case No. 545 of 2023, 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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