

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78931 of 2024

Arising Out of PS. Case No.-131 Year-2024 Thana- ANDHRAMATH District- Madhubani

Sanjay Yadav @ Sanjay Kumar Yadav @ Shivbhajan Yadav @ Sanjay Kumar
Son of Jibachh Yadav Resident of Village - Subbatol, P.S. - Andhramath,
District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Bharti
For the Opposite Party/s : Mr.Khurshid Anwar

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 connection with Andharamath P.S. Case No. 131 of 2024 dated 12.08.2024 registered for the offences punishable u/s 274, 275 and 3(5) of the B.N.S. and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 324 litres of illicit Nepali country made liquor was recovered from the possession of the co-accused person, Siyaram Yadav.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is implicated in this case on the basis of



confessional statement of the co-accused, Siyaram Yadav. The petitioner has three criminal antecedents and he is on bail in all the aforesaid cases as stated in para 3 of the bail petition. The other co-accused person has already been granted bail by this court *vide* order dated 25.09.2024 passed in Cr. Misc. No. 69733/2024. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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, Jhanjharpur, Madhubani in connection with Andharamath P.S. Case No. 131 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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