

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76261 of 2024

Arising Out of PS. Case No.-145 Year-2024 Thana- DARBHANGA SADAR District-
Darbhanga

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Baliram Yadav S/O Maheshwar Yadav R/O Village- Baghala Kamalpur, P.S -
Bishanpur, Distt .-Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ratnakar Jha, Adv.

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

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

ORAL ORDER

2 15-02-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Darbhanga Sadar (Bhalpatti O.P) P.S Case No. 145/2024 dated 15.03.2024 for the offences punishable u/ss 420, 468 and 471 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 138 litres of illicit foreign liquor was recovered from the Car and the apprehended co-accused person disclosed the name of the petitioner and the co-accused Sunil Yadav.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The petitioner is neither the owner nor the driver of the said vehicle. The name of the petitioner was sprung up in this case in the confessional statement of the co-accused, Sonu Kumar. The petitioner has three criminal antecedents 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 30.08.2024 passed in Cr. Misc. No. 58835/2024. 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, Darbhanga in connection with Darbhanga Sadar (Bhalpatti O.P) P.S Case No. 145/2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with the condition:-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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