

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2648 of 2023

Arising Out of PS. Case No.-68 Year-2022 Thana- INDUSTRIAL AREA District- Vaishali

GAJENDRA SINGH Son of Bhagat Singh Resident of- Quarter No. 1651,
Sector 9 D, Street No. 38, Bokaro Steel City, P.S.- Bokaro Steel City, District-
Bokaro (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dwij Raj, Advocate

For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap, APP

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

ORAL ORDER

3 17-02-2023 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.

Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State through virtual court
proceeding.

The Petitioner is apprehending his arrest in a case
registered for the offences punishable u/s 420, 465, 467, 468,
471 of the Indian Penal Code and 30(a), 36 and 41(1) of the
Bihar Prohibition and Excise Act.

As per the prosecution case, total 4842 litres of
country made liquor was recovered from the truck.

Learned counsel for the petitioner has submitted that



the petitioner has falsely been implicated in this case. The petitioner is not named in the FIR. The name of the petitioner has surfaced during the course of the investigation. The petitioner has no concern with the said recovery. The petitioner is neither the owner of the said vehicle nor his name was taken by the apprehended person. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has four criminal antecedents which are related to Excise Act 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.

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.



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, Vaishali at Hajipur in connection with Industrial Area P.S. Case No. 68 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

The application stands allowed.

(Chandra Prakash Singh, J)

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