

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21510 of 2023

Arising Out of PS. Case No.-18 Year-2023 Thana- FULKAHA District- Araria

DEEPAK KUMAR @ DEEPAK MEHTA SON OF SURYANARAYAN
MEHTA @ PANKAJ MEHTA RESIDENT OF VILLAGE - MANIKPUR,
WARD NO. 08, P.S. - FULKAHA, DISTT. - ARARIA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Adv.

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

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

ORAL ORDER

3 24-06-2023 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.

The Petitioner is apprehending his arrest in connection

with Fulkaha P.S. Case No. 18 of 2023 dated 14.02.2023

registered for the offences punishable under sections 30(a),

41(1) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 13.200 litres of

Nepali liquor was recovered from a motorcycle.

Learned counsel for the petitioner has submitted that

the petitioner has falsely been implicated in this case. Nothing



has been recovered from the conscious possession of the petitioner, hence no case is made out. The petitioner has no concern with the seized liquor and the motorcycle. The petitioner has got no criminal antecedents as stated at para 3 of the bail petition. Learned Counsel has relied on the judgement 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.

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 nature of allegation, 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



learned Court concerned, Araria in connection with Fulkaha P.S.
Case No. 18 of 2023, subject to conditions as laid down under
Section 438(2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

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