

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33688 of 2023

Arising Out of PS. Case No.-65 Year-2023 Thana- JANDAHA District- Vaishali

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UMA SHANKAR BHARTI S/o- RAM BABU SINGH Village- Karhatiya
Bujrug Ps- Goraul Dist- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bela Singh, Advocate

For the Opposite Party/s : Mr. Sucheta Yadav, APP

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

ORAL ORDER

2 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

Special Public Prosecutor for the State.

The Petitioner is apprehending his arrest in connection

with Jandaha P.S. Case No. 65 of 2023 dated 24.02.2023

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

32(i), 36(i), 41(i) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 1918.080 litres of

Indian made foreign liquor was recovered from a Mahindra

pickup, a Tata pickup and a bolero.

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 seized vehicle has already been sold by the petitioner to one Priyanka Devi, wife of Amarnath Rai. The petitioner has no concern with the said recovery. The said vehicle was not being driven by the petitioner at the time of alleged occurrence. Similarly situated co-accused has already been granted bail by the co-ordinate bench of this Court vide order dated 19.05.2023 passed in Cr. Misc. No. 30230 of 2023. The petitioner has 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, Vaishali at Hajipur in connection with Jandaha P.S. Case No. 65 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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