

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33712 of 2023

Arising Out of PS. Case No.-322 Year-2022 Thana- CHAPRA MUFFASIL District- Saran

Gorakh Chaudhary @ Ajay Chaudhary, Son of Fulena Chaudhary, Resident
Of Village- Karinga Musehari, PS- Muffasil , Distt- Saran At Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar,Advocate
For the Opposite Party/s : Mr.Bharat Bhushan, APP

**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
Additional Public Prosecutor for the State.

The petitioner is apprehending his arrest in connection
with Chapra Muffasil P.S. Case No. 322 of 2022 dated
30.04.2022 registered for the offences punishable u/s 30 (a) of
the Bihar Prohibition and Excise Act.

As per prosecution case, total 41 litres of country
made liquor was recovered from the poultry farm of one
Krishna Singh. The allegation against the petitioner is that he
threw the bag in which 16 litres of country made liquor was



kept.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The name of the petitioner has surfaced on the basis of disclosure made by the co-accused persons. Nothing has been recovered from the possession of the petitioner. The petitioner has no criminal antecedent as stated at 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 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 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 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, Saran at Chapra in connection with Chapra Muffasil P.S. Case No. 322 of 2022, 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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