

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33776 of 2023

Arising Out of PS. Case No.-445 Year-2022 Thana- RAGHOPUR District- Supaul

Pardeep Kumar Sharma @ Pradeep Kumar Sharma, Son of Yogendra Sharma,
Resident of village - Dharhara, P.S. - Raghopur, Distt. - Supaul, presently
resident of Jahangirpur, P.s. - Jahangirpur H-Block, North West Delhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Madhav Jha, Advocate

For the Opposite Party/s : Mr.Abhay Kumar Roy, 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 Raghopur P.S. Case No. 445 of 2022 dated 28.11.2022

registered for the offences punishable u/s 30 (a) of the Bihar

Prohibition and Excise Act.

As per the prosecution case, total 378 litres of Nepali

liquor was recovered from a white colour Honda car.

Learned counsel for the petitioner has submitted that

the petitioner has falsely been implicated in this case. Learned



counsel has further submitted that the said vehicle has already been sold to Sunil Mukhiya prior to lodging this present case which is stated in annexure-2. He has further submitted that the said vehicle was not being driven by the petitioner at the time of alleged recovery. Nothing has been recovered from the conscious possession of the petitioner hence, no case is made out against the petitioner. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. 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, Supaul in connection with Raghopur P.S. Case No. 445 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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