

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34055 of 2023

Arising Out of PS. Case No.-200 Year-2023 Thana- PATORI District- Samastipur

BAIDH NATH KUMAR @ BAIDYA NATH RAI @ BAIDYA NATH
KUMAR RAI Son of Indreshwar Ray @ Indareshwar Rai Resident of Village
- Mohanpur, P.s. - Shahpur Patori, Distt. - Samastipur

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Nawal Kishore Prasad, Advocate

For the Opposite Party/s : Mr.Syed Mojibur Rahman, 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 Patori (Mohanpur O.P) P.S. Case No. 200 of 2023 dated

17.03.2023 for the offences punishable u/s 30(a) of the Bihar

Prohibition and Excise Act.

As per the prosecution case, total 34.5 litres of illicit

liquor was recovered from the Bolero Vehicle.

Learned counsel for the petitioner has submitted that

the petitioner has falsely been implicated in this case. The



petitioner is accused in one more criminal case as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The petitioner is not the owner of the said vehicle. 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 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,
Samastipur in connection with Patori (Mohanpur O.P) P.S. Case
No. 200 of 2023, 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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