

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 34180 of 2023

Arising Out of PS. Case No.-166 Year-2023 Thana- BEUR District- Patna

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DINA PRASAD S/O HARIDWAR PRASAD R/O Jai Mahavir Colony,
Sandalpur, P.S- Bahadurpur, Distt.- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Vivek Anand Amritesh, Advocate
For the Opposite Party/s : Mr Khurshid Anwar, APP

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CORAM: HONOURABLE MR JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 24-06-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor (for brevity, **APP**) appearing for
the State of Bihar.

The petitioner is apprehending his arrest in connection
with Beur Police Station (for brevity, **PS**) Case No 166 of 2023
dated 02.03.2023 registered for the offences punishable under
Sections 30 (a) and 37 of the Bihar Prohibition and Excise Act.

As per the prosecution case, 500 ml illicit foreign
liquor was recovered from the vehicle.

Learned counsel for the petitioner has submitted that
the petitioner has falsely been implicated in this case. The
petitioner bears clean antecedent, as stated at paragraph 3 of the
bail petition. No incriminating article has been recovered from



the possession of the petitioner, hence no case is made out. The petitioner is the owner of the said vehicles but the same was not being driven by the petitioner at the time of alleged occurrence. Learned counsel has relied on the judgment of Full Bench of of this Court in the case of ***Ram Vinay Yadav -Versus- 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 the Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the First Information Report, no offence under the said provision is made out.

Learned APP appearing for the State of Bihar 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 his furnishing bonds of Rs 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of Special Judge, Excise,



Patna in Beur PS Case No 166 of 2023, subject to all conditions
as laid down under Section 438 (2) of Criminal Procedure Code.

(Chandra Prakash Singh, J)

M.E.H./-

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