

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 34331 of 2023**

Arising Out of PS. Case No.-145 Year-2022 Thana- DIDARGANJ District- Patna

PANKAJ KUMAR S/O KAMESHWAR RAY R/o Village-Rikabganj, Bazar
Samiti P.S.-Didarganj, District-Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Jay Ram Prasad, Advocate
For the Opposite Party/s : Mr Braj Kishore Pd, APP

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 Didarganj Police Station (for brevity, **PS**) Case No 145 of
2022 dated 05.06.2022 registered for the offences punishable
under Sections 30 (a) and 36 of the Bihar Prohibition and Excise
Act.

As per the prosecution case, 7.500 litres of foreign
liquor was recovered from the bag which was allegedly thrown
after parking the motorcycle.

Learned counsel for the petitioner has submitted that
the petitioner has falsely been implicated in this case. The



petitioner is the owner of the motorcycle but the same was not being driven by him at the time of alleged occurrence. It is further submitted that 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. 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 Exclusive Special Judge, Excise, Patna City in Didarganj PS Case No 145 of 2022, subject to all conditions as laid down under Section 438 (2) of Criminal Procedure Code.

(Chandra Prakash Singh, J)

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