

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48006 of 2023

Arising Out of PS. Case No.-320 Year-2020 Thana- NAUTAN District- West Champaran

Ajay Kumar Kharwar @ Ajay Kumar Kharabar @ Ajay Mahto Son Of
Vikram Mahato Resident Of Village- Birti Tola, Ps- Jagdishpur, Dist- West
Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Gupta, Adv.

For the Opposite Party/s : Mr. Md. Nazir Ansari, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-08-2023 Heard Mr. Ashok Kumar Gupta, learned counsel

appearing on behalf of the petitioner and learned Additional

Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Nautan (Jagdishpur) P.S. Case No. 320 of 2020, registered
for the offences punishable under Section 30(a) of the Bihar
Prohibition and Excise Act, 2016.

3. In course of patrolling, on noticing the police
personnels, two persons who were coming on their respective
motorcycles, succeeded in fleeing away by leaving their
motorcycles. On search, two litres and four litres *chulai* liquor
from each motorcycle was recovered.

4. Submission has been made on behalf of the



petitioner that he has been made accused only in the capacity of owner of the motorcycle which was parked by the side of the road and while he had gone to meet his friend, the police seized that motorcycle and recovery of illicit wine has been shown. He next submitted that admittedly the alleged recovery has been made from a public place and the petitioner bears fair antecedent and he has no concern with the recovered illicit wine.

5. On the other hand, learned counsel for the State opposes the bail application and submits that the learned trial court while rejecting the bail application has pointed out that anticipatory bail is not maintainable in view of Section 76(2) of the Bihar Prohibition and Excise Act.

6. So far as the issue regarding maintainability of anticipatory bail under the Bihar Prohibition and Excise Act is concerned, the entire confusion has already been dispelled by the Full Bench of this Court in the case of **Ram Vinay Yadav vs. The State of Bihar** reported in **2019(2) PLJR 1089**.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that the recovery has been made from a public place, coupled with the fair antecedent and also in view of the observation made by the Full



Bench of this Court in **Ram Vinay Yadav** (supra), let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned court of Exclusive Special Judge, Bettiah, West Champaran in connection with Nautan (Jagdishpur) P.S. Case No. 320 of 2020, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

(Harish Kumar, J)

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