

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52463 of 2023

Arising Out of PS. Case No.-342 Year-2023 Thana- GOVINDGANJ District- East
Champaran

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Umesh Ram S/O Late Lalan Ram R/O Village- Barwa Ward No. 11, P.S-
Areraj (O.P), Distt.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sharad Kumar Verma, Adv.

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 23-08-2023 Heard Mr. Sharad Kumar Verma, learned counsel

appearing on behalf of the petitioner and Mr. Damodar Prasad

Tiwary, learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection
with Govindganj (Areraj) P.S. Case No. 342 of 2023, registered
for the offences punishable under Sections 414,272,273,34 of
the Indian Penal Code and Section 30(a) of the Bihar
Prohibition and Excise Act, 2016.

3. In course of patrolling, two persons were coming
on a motorcycle, however, on noticing the police force, one of
them succeeded in fleeing away. The apprehended persons
disclosed his name as Vikesh Kumar and on search five litres of
country-made liquor was recovered from the dickey of the



motorcycle.

4. Learned counsel appearing on behalf of the petitioner submits that the petitioner has neither any concern with the motorcycle nor with the alleged recovered country-made liquor. That apart, barring the confessional statement of the co-accused, that too before the police, there is no material suggesting the complicity of the petitioner. He next submits that the petitioner is a man of fair antecedent and he undertakes that he will fully cooperate in the investigation or in the proceeding of the court.

5. On the other hand, learned counsel for the State vehemently opposed the bail application and submits that in view of Section 76(2) of the Bihar Prohibition and Excise Act, the anticipatory bail application is not maintainable.

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 barring the disclosure of the co-accused before the police, there is no



material and he has neither any concern with the motorcycle nor with the alleged illicit liquor, coupled with the fair antecedent, 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 Exclusive Special Excise Court No. 1, Motihari, East Champaran in connection with Govindganj (Areraj) P.S. Case No. 342 of 2023, 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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