

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55203 of 2022

Arising Out of PS. Case No.-92 Year-2022 Thana- RANIYATALAB District- Patna

PRAKASH CHANDRA S/o Late Bhola Prasad Resident of- M 10/63 Ar-1,
Jaypees Nagar, Kakarmatta Bajardiha, P.S.- Bhelupur, District- Varanasi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amresh Kumar Sinha
For the Opposite Party/s : Mr.Md. Iftekhar Mahmood

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 20-01-2023 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
Special Public Prosecutor for the State.

The Petitioner is apprehending his arrest in a case registered for the offences punishable u/s 30(a)/32(i) (iii)/36/41(i) (ii) of Bihar Prohibition and Excise Act.

As per the prosecution case, two miscreants boarded on a car were apprehended by police who disclosed their names as co-accused Roshan Kumar and Ajay Kumar Singh. On search 13.170 litres illicit liquor was recovered from the said car. The apprehended person also disclosed the name of the petitioner



and stated that he purchased aforesaid liquor from the petitioner.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing has been recovered from the possession of the petitioner. The petitioner is not the owner of the said vehicle. The petitioner is also accused in two more criminal cases which is related to Excise Act as stated in para 3 of the bail petition. Learned Counsel has relied on the judgement 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, 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 learned Court concerned, Patna in connection with Raniyatalab P.S. Case No. 92 of 2022, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

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