

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59760 of 2023

Arising Out of PS. Case No.-592 Year-2023 Thana- GOVERNMENT OFFICIAL COMP.
District- Aurangabad

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Umesh Mehta, S/O Nagdeo Mehta, R/O Village- Kharkani, P.S- Aurangabad
(M), Distt.- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Singh, Advocate
For the Opposite Party/s : Mr.Awadhesh Kumar Singh, APP

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

ORAL ORDER

2 27-09-2023 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.

2. Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in
connection with Excise Case No. 592 of 2023 dated 26.07.2023
registered for the offences punishable under Section 30(a) of the
Bihar Prohibition and Excise Act.

4. As per the prosecution case, 12.960 litres of illicit
country made liquor was recovered from the dicky of the
motorcycle which was being driven by the co-accused Shivam
Kumar. It is further stated that the petitioner is the father of the



co-accused Shivam Kumar.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. The petitioner is neither the driver nor the owner of the said motorcycle. It is further submitted that the petitioner was not apprehended from the spot. Nothing has been recovered from the possession of the petitioner. Learned counsel has submitted that no case is made out against the petitioner. Learned Counsel has relied on the judgment 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. The petitioner has no criminal antecedent as stated in para 3 of the bail petition.

6. 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.



7. 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 furnishing bail bond of Rs. 20,000/-(Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Aurangabad in connection with Excise P.S. Case No. 592 of 2023, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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