

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59085 of 2023

Arising Out of PS. Case No.-125 Year-2021 Thana- BALIA BELON District- Katihar

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S K SAFI AKBAR S/o S K Mahboob Ali R/o B L Saha Road, P.S.-New
Alipore, Dist.-Kolkata, State-West Bengal.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Mrityunjay Kumar
For the Opposite Party/s : Mr.Veena Kumari Jaiswal

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

ORAL ORDER

3 22-11-2023 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 Baliya Belon P.S Case No. 125 of 2021 dated
06.10.2021 for the offences punishable u/s 30(a) and 41 of the
Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 1762.245 litres of
illicit liquor was recovered from the truck.

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



petitioner has no criminal antecedent as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The truck does not belong to the petitioner. The name of the petitioner was disclosed by the arrested person. 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.

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/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Katihar in connection with Baliya Belon P.S Case No. 125 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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