

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70879 of 2022

Arising Out of PS. Case No.-189 Year-2021 Thana- BHAGWANPUR District- Vaishali

JITENDRA RAI S/o Umesh Rai R/v- Jadhua, P.S.- Town Hajipur, District-
Vaishali

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anuj Kumar

For the Opposite Party/s : Mr.Sucheta Yadav

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

ORAL ORDER

2 13-01-2023 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 through video-

conferencing.

The Petitioner is apprehending his arrest in a case

registered for the offences punishable u/s 272 & 273 of the

I.P.C and 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, on seeing the police one

person fled away leaving behind the tempo and 110.5 litres

country-made liquor was recovered from the said vehicle.

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. The petitioner is not named in the F.I.R . Nothing has been recovered from the possession of the petitioner. The petitioner is the second owner of the vehicle. The petitioner was not present at the spot. 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.

Learned S.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 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, Vaishali at Hajipur in connection with Bhagwanpur P.S. Case No. 189 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

The application stands allowed.

(Chandra Prakash Singh, J)

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