

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71602 of 2023

Arising Out of PS. Case No.-297 Year-2018 Thana- BEUR District- Patna

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Dhiraj Kumar @ Dheeraj Kumar Son of Kamal Nayan Sharma Village- Bhor
Ps- Tikari Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Suraj Prakash, Advocate

For the Opposite Party/s : Mr. Dinesh Singh, A.P.P.

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

ORAL ORDER

2 23-11-2023 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 Beur P.S Case No. 297 of 2018 dated
21.09.2018 for the offences punishable u/s 30(a) of the Bihar
Prohibition and Excise Act.

4. As per the prosecution case, total 8.250 litres of
illicit liquor kept in a blue bag was recovered from the rented
room of the petitioner who was residing in the house of the
informant.



5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that the place from where liquor was recovered does not belong to the petitioner. The petitioner is neither the owner of the house nor he has taken room on rent in that house because there is no rent agreement between the parties to substantiate the allegation made in the F.I.R. 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. 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, Patna in connection with Beur P.S. Case No. 297 of 2018, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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