

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73002 of 2023

Arising Out of PS. Case No.-341 Year-2015 Thana- GOVERNMENT OFFICIAL COMP.
District- Nawada

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Gola Chaudhary @ Shyam Sundar Chaudhary S/O- Jaglal Chaudhary Village-
Jandhaul Ps- Sirdala Dist- Nawada

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

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

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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 a case in
connection with Excise P.S. Case No. 341 of 2015 dated
04.02.2015 for the offence/s punishable u/s 47(a), (f) of the
Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 80 litres of
country made liquor and 540 kgs of fermented Jawa Mahua
were recovered near a canal.

5. Learned counsel for the petitioner has submitted



that the petitioner has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. The said recovery was made from an open place accessible to anyone. As per impugned order, the petitioner is accused in one more criminal case. 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 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 material available on record, 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, Nawada in connection with Excise P.S. Case No. 341 of 2015, subject to conditions 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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