

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68018 of 2022**

Arising Out of PS. Case No.-228 Year-2022 Thana- DURGAWATI District- Kaimur (Bhabua)

NARAINDUTT BHARDAWAJ @ NARAIN DUTT BHARDWAJ Son of
Ashok Kumar R/V- 22, Nimri Chowk, Bankauli, North West Delhi, Delhi
110036

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey, Advocate

For the Opposite Party/s : Mr. Binod Kumar, APP

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

ORAL ORDER

4 25-02-2023 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

Additional Public Prosecutor for the State.

The Petitioner is apprehending his arrest in a case

registered for the offences punishable u/s 30(a) of the Bihar

Prohibition and Excise Act.

As per the prosecution case, total 2175 litres of illicit

liquor was recovered from the Tata six wheeler D.C.M. truck

bearing Registration No. DL1MA-8787.

Learned counsel for the petitioner has submitted that

the petitioner has falsely been implicated in this case. Nothing



has been recovered from the conscious possession of the petitioner. The petitioner is the owner of the said vehicle. At the time of occurrence, the said vehicle was being driven by the driver and the petitioner has no knowledge about the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. 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.

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.

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, Kaimur at Bhabhua in connection with Durgawati P.S. Case No. 228 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with following condition:-

1. The court below shall verify the criminal antecedent of the petitioner and at any stage, if it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Chandra Prakash Singh, J)

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