

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71157 of 2022

Arising Out of PS. Case No.-83 Year-2021 Thana- FULKAHA District- Araria

=====

Dhirendra Yadav @ Dhirendra Kumar Yadav, S/o Fulo Yadav, R/v- Latauna,
Ward No. 01, P.S.- Triveniganj, District- Supaul

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Anil Prasad Singh, Advocate

For the Opposite Party/s : Mr.Rajesh Kumar, S.P.P

=====

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 virtual court proceeding.

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, two persons boarded on a motorcycle were coming with a bag. They were apprehended by the police. On search, 72 litres of wine was recovered from the said bag. They also disclosed that the said wine was given to



them by the co-accused Maheshwari and the petitioner Dhirendra Yadav.

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. Nothing incriminating has been recovered from the possession of the petitioner. Nothing has been recovered from the possession of the petitioner. The name of the petitioner has transpired on the basis of disclosure of the co-accused persons. 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 bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge Excise-II, Araria in connection with Fulkaha P.S. Case No. 83 of 2021, subject to conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

Gautam/-

U		T	
---	--	---	--

