

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72479 of 2023

Arising Out of PS. Case No.-197 Year-2023 Thana- LAUKAHA District- Madhubani

Vijay Kumar Yadav @ Vijay Yadav Son Of Uday Narayan Yadav Resident Of
Village - Balanpatti, P.S. - Laukaha, District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Baleshwar Kamat, Advocate

For the Opposite Party/s : Mr. Khurshid Anwar, A.P.P.

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

ORAL ORDER

2 10-11-2023 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 Laukaha P.S Case No. 197 of 2023, G.R. No.
531 of 2023 dated 19.07.2023 for the offences punishable under
Sections 272, 273 read with 34 of the Indian Penal Code and
Section 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, recovery of total
83.400 litres of illicit Nepali liquor was made from the three jute
bags loaded on a motorcycle.



5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. No incriminating article has been recovered from the possession of the petitioner, hence no case is made out. The said vehicle was not being driven by 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. The petitioner has no criminal antecedent as stated at para 3 of the bail petition

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, Jhanjharpur at Madhubani in connection with Laukha P.S. Case No. 197 of 2023, G.R. No. 531 of 2023, 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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