

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73113 of 2022

Arising Out of PS. Case No.-211 Year-2022 Thana- CHAUTHAM District- Khagaria

Chhotelal Yadav, Son of Late Janardan Yadav Resident of Village- Pithahi,
P.S.- Madhepura, District- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Mishra, Advocate

For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur, APP

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

ORAL ORDER

2 20-01-2023 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 Additional 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), 32(1)(2), 41(1) (2) of the Bihar Prohibition and Excise Act.

As per the prosecution case, three miscreants started fleeing away from Scorpio vehicle but they were apprehended by the police. On being asked, they disclosed their names as Munnu Kumar, Guddu Kumar and Krishana Kumar. On search



of the said vehicle, 177.20 litres English wine and mobile phone was recovered. The co-accused Guddu Kumar disclosed that the petitioner Chhotelal Yadav is the owner of the said Scorpio vehicle. The co-accused Guddu Kumar is the son of the petitioner.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. He has further submitted that the name of the petitioner has sprung up in this case on the basis of the confession of the co-accused Guddu Kumar who is the son of the petitioner. Nothing has been recovered from the possession of the petitioner. The petitioner has no knowledge about the said offence of the co-accused Guddu Kumar. 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 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 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 nature of allegation against the petitioner, let the above named petitioner, in the event of his/her 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 Court concerned, Khagaria in connection with Choutham P.S. Case No. 211 of 2022, subject to conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

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