

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72620 of 2022

Arising Out of PS. Case No.-300 Year-2022 Thana- BARH District- Patna

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Nago Paswan @ Nago Kumar S/o Rajnandan Paswan @ Karu Paswan R/o
Village- Kali Asthan Malahi Pachhiyari Malahi, P.S.- Barh, Distt- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Anjana, Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH
ORAL ORDER

2 20-01-2023 Learned counsel for the petitioners 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 video

conferencing.

The petitioner is apprehending his arrest in connection

with Barh P. S. Case No. 300 of 2022 registered for the offences

punishable under Section 30(a) of the Bihar Prohibition and

Excise Act.

As per the prosecution case, the police, on a secret

information, apprehended three persons. Total 18.800 litres

country-made liquor was recovered from the possession of the

apprehended two persons, namely, Rajesh Kumar and Dhiraj



Kumar. The apprehended co-accused persons disclosed the name of the petitioner as a supplier of the liquor.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing has been recovered from the possession of the petitioner. The petitioner has neither any concern with the co-accused persons nor with the alleged recovery. The name of the petitioner has transpired on the basis of the disclosure of the co-accused persons. The petitioner is accused in one more criminal case, which is related to the Excise Act 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 APP 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, 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-bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Court concerned, Barh, Patna in connection with Barh P. S. Case No. 300 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

The application stands allowed.

(Chandra Prakash Singh, J)

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