

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74673 of 2023

Arising Out of PS. Case No.-125 Year-2022 Thana- DARIHAT District- Rohtas

Uma Kant @ Uma Kant Kumar Son Of Jitendra Singh Resident Of Village -
Mathurapur (MASAUNA), Police Station - Sanjhauli, District - Rohtas

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhat Kumar Dipak, Advocate

For the Opposite Party/s : Mr. Upendra Kumar, A.P.P.

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

ORAL ORDER

2 05-12-2023 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 Darihat P.S Case No. 125 of 2022 dated
11.06.2022 for the offences punishable u/ss 272, 273, 419,
467, 420, 468, 471, 120B read with 34 of the Indian Penal
Code and 30(a), 31, 32(i)(ii), 36, 41 and 45 of the Bihar
Prohibition and Excise Act.

4. As per the prosecution case, total 2232 litres of



English liquor was recovered from a truck.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that the name of the petitioner has transpired on the basis of disclosure made by the co-accused namely, Rohit Yadav. Learned counsel has further submitted that the petitioner is neither the owner nor the driver of the said truck. The co-accused has already been granted anticipatory bail by the Co-ordinate Bench of this Court vide order dated 12.10.2023 passed in Cr. Misc No. 61316 of 2023. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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.

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, Rohtas at Sasaram in connection with Darihat P.S. Case No. 125 of 2022, 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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