

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75867 of 2023

Arising Out of PS. Case No.-281 Year-2021 Thana- KISHANGANJ District- Kishanganj

NAWAB ALAM Son of Mohfil R/o vill - Gaiyari, P.S. - Araria, Distt. - Araria

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mrityunjay Kumar
For the Opposite Party/s : Mr.Pramod Kumar Pandey

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

ORAL ORDER

2 12-12-2023 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 Kishanganj P.S Case No. 281 of 2021 dated 09.06.2021 for the offences punishable u/s 272 and 273 of the IPC and Sections 30(a), 41 and 47 of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 122.625 litres of Indian made foreign liquor has been recovered from the Tata Tigor Car.

5. 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. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. Learned counsel has submitted that the alleged car has been transferred earlier to the petitioner by the owner of the said car i.e. the co-accused Pritam Kumar on agreement paper but the fact is that the petitioner is not having any concerned with the alleged car as no documents has been produced by the co-accused Pritam Kumar Bhagat in support of his statement as it has never been purchased 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.

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, Kishanganj in connection with Kishanganj P.S Case No. 281 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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