

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70869 of 2022

Arising Out of PS. Case No.-424 Year-2022 Thana- RAJAOLI District- Nawada

KAUSHAL YADAV S/O Munna Yadav R/O Village- Jogani, P.S- Rajauli,
District- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Birendra Kumar

For the Opposite Party/s : Mr.Anand Kishore Choudhary APP

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

ORAL ORDER

2 13-01-2023 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 Special Public Prosecutor for the State.

The Petitioner is apprehending his arrest in a case registered for the offences punishable u/s 30(a) Bihar Prohibition and Excise Act.

As per the prosecution case, on seeing the police, the petitioner and the co-accused person managed to flee away after throwing 60 litres country-made liquor near the bridge. The local chaukidar and people disclosed the name of the petitioner.

Learned counsel for the petitioner has submitted that



the petitioner has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. The name of the petitioner has transpired on the basis of the disclosure of the local chaukidar. The petitioner has no criminal antecedent as stated at 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 judgement 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 S.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, 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 learned Court concerned, Nawada in connection with Rajaoli P.S. Case No. 424 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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