

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73171 of 2022

Arising Out of PS. Case No.-132 Year-2022 Thana- PUNAURA District- Sitamarhi

NAWAL KUMAR @ NAVAL KUMAR S/O Gaurishankar R/O Village-
Badharpur, P.S- Dumra, District- Sitamadhi, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sumit Shekhar Pandey

For the Opposite Party/s : Mr.Pronoti Singh

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

ORAL ORDER

3 03-02-2023 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 414, 420, 467, 468,
471 read with 34 of the IPC and Section 30(a) Bihar Prohibition
and Excise Act.

As per the prosecution case, total 1568.25 litres illicit
liquor was recovered from the container truck.

Learned counsel for the petitioner has submitted that
the petitioner has falsely been implicated in this case. The



apprehended co-accused person disclosed the name of the petitioner. Nothing incriminating material has been recovered from the possession of the petitioner. The petitioner is neither driver nor the owner of the said vehicle. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. 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 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, 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, Sitamarhi in connection with Punaura P.S. Case No. 132 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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