

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72178 of 2022

Arising Out of PS. Case No.-386 Year-2022 Thana- AURANGABAD TOWN District-
Aurangabad

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Arjun Kumar S/o Late Chhotan Chaudhary R/v- Mahuwa Shahid,
Dharmshala Chowk, P.S.- Aurangabad Town, District- Aurangabad (Biahr)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Leelawati Kumari, Advocate.

For the Opposite Party/s : Ms. Veena Kumari Jaiswal, 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 Aurangabad Town P. S. Case No. 386 of 2022 registered

for the offences punishable under Section 30(a) of the Bihar

Prohibition and Excise Act.

As per the prosecution case, On seeing the police, one

miscreant fled away leaving behind his motorcycle. On search,

total 3.750 litres Indian made foreign liquor was recovered from



the dickey of the said motorcycle.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is not named in the F.I.R. Nothing has been recovered from the possession of the petitioner. The petitioner is the registered owner of the said motorcycle. He has been dragged in this case on mere suspicion. The petitioner has got no criminal antecedent 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, Aurangabad in connection with Aurangabad Town P. S. Case No. 386 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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