

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71713 of 2022

Arising Out of PS. Case No.-338 Year-2022 Thana- AGAMKUAN District- Patna

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Rohit Kumar Pandey @ Chhotu Kumar, Son of Upendra Pandey, R/O Village-
Masuriya Kala, P.S.- Dumariya, District- Gadhwa (Jharkhand) At Present
Resident of Kanta Toli Chowk, Near Hanuman Temple, P.S.- Lalpur, District-
Ranchi (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Chandra Shekhar Anand, Advocate

For the Opposite Party/s : Mr.Ramesh Chandra, S.PP

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**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 through virtual court

proceeding.

The petitioner is apprehending his arrest in a case

registered for the offences punishable u/s 30 (a), 32(2), 38(1)(2)

and 41(2) of the Bihar Prohibition and Excise Act.

As per the prosecution case, the police got

information that some miscreants were transporting liquor in a

vehicle near the house of co-accused Prince Kumar at Chanakya



Nagar, Kumharar. When the police reached the place of occurrence, 4-5 miscreants tried to flee away out of which two were apprehended. On search, total 175.875 litres of foreign liquor was recovered from the seized vehicle. The apprehended co-accused further disclosed that the co-accused Prince Kumar runs a syndicate along with the petitioner and other co-accused persons and sells illegal liquor.

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. Nothing has been recovered from the possession of the petitioner. The petitioner is not the owner of the seized vehicle. He has further submitted that the name of the petitioner has surfaced on the basis of confessional statement of co-accused. 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 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 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 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, Patna City in connection with Agamkuan P.S. Case No. 338 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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