

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72300 of 2022

Arising Out of PS. Case No.-332 Year-2022 Thana- PAROO District- Muzaffarpur

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Dheeraj Yadav @ Dheeraj Kumar Son of Jaynarayan Ray R/V- Mojahida, P.S-
Mehsi, Dist- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate.

For the Opposite Party/s : Mr. Jitendra Kumar Singh, 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 Paroo P. S. Case No. 332 of 2022 registered for the

offences punishable under Sections 420, 467, 468, 471 and

120B of the Indian Penal Code, Sections 25 (1-b)a, 26 and 35 of

the Arms Act and Sections 30(a), 31, 32 and 41 (a) of the Bihar

Prohibition and Excise Act.

As per the prosecution case, the police, on a secret

information, intercepted a four wheeler vehicle bearing



registration no. BR-05-PB-1080 and apprehended two persons, who were sitting in the said vehicle. On being asked, they disclosed their names as Tinku Kumar and Ayush Kumaron. On search, four live cartridges and Rs. 10,000/- was recovered from the possession of the Tinku Kumar. It is further alleged that on the disclosure made by the co-accused Tinku Kumar, the police intercepted an another truck bearing registration no. UP-70BT-5637. On search, total 2176.740 litres of illicit foreign liquor was recovered.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is evident from the F.I.R. that the petitioner was not present at the spot. Nothing has been recovered from the conscious possession of the petitioner. The name of the petitioner has transpired in the confessional statement of the co-accused Tinku Kumar. The petitioner has neither any concerned with the seized vehicle nor with the alleged recovery. 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 her 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, Muzaffarpur in connection with Paroo P. S. Case No. 332 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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