

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74513 of 2022**

Arising Out of PS. Case No.-124 Year-2022 Thana- BISHWAMBHARPUR District-
Gopalganj

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DHIRAJ YADAV S/o Late Ekbal Yadav @ Late Ramekbal Yadav R/v-
Baliwan Raymal, P.S.- Bishambharpur (Vishambharpur) District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh, Advocate.
For the Opposite Party/s : Mr. Kumar Veerendra Narayan, APP.

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

ORAL ORDER

2 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

Additional Public Prosecutor for the State through video

conferencing.

The petitioner is apprehending his arrest in connection

with Bishambharpur (Vishambharpur) P. S. Case No. 124 of

2022 registered for the offences punishable under Section 30(a)

of the Bihar Prohibition and Excise Act.

As per the prosecution case, on an information that

two persons boarded on two motorcycles loaded with gunny bag

on each are coming towards Mathihiniya Bazar, the police



reached the place of occurrence. On seeing the police, the accused persons were trying to flee away leaving behind their motorcycles but one of them was apprehended by the police and the other person succeeded in fleeing away. Later on, he was identified by the police as the petitioner. On search the said motorcycles, total 17.500 litre illicit liquor was recovered.

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 petitioner has not been present at the spot. 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, Gopalganj in connection with Bishambharpur (Vishambharpur) P. S. Case No. 124 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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