

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74295 of 2022**

Arising Out of PS. Case No.-305 Year-2020 Thana- JAYNAGAR District- Madhubani

Rajendra Yadav @ Mohan Yadav Son Of Ram Lakhan Yadav R/O Village-
Sahuriya, P.S.- Jaynagar, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Advocate.

For the Opposite Party/s : Mr. Mohammed Arif, APP.

**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 Jaynagar P. S. Case No. 305 of 2020 registered for the offences punishable under Sections 272, 273, 414 read with Section 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, in course of patrolling duty, the police saw that six miscreants boarding on their



respective motorcycles were coming from Nepal Side. Out of the six bike riders, one was apprehended by the police and the rest miscreants succeeded in fleeing away leaving behind their respective motorcycles. On search, total 432 litre illicit Nepali liquor was recovered from all the six motorcycles.

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 conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. The said motorcycle has not been driven by the petitioner. The petitioner was not present at the spot but being owner of the said motorcycle, he has been dragged in this case. 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, Madhubani in connection with Jaynagar P. S. Case No. 305 of 2020, 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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