

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74976 of 2022

Arising Out of PS. Case No.-468 Year-2022 Thana- KOTWA District- East Champaran

RAJNISH SINGH @ CHAMAN SINGH Son of Akhileshwar Singh @ Jeeut
Singh R/v- Chhapiya, P.S.- Mashrak, Dist- Saran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Advocate
For the Opposite Party/s : Mr. Atul Chandra, 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 virtual court
proceeding.

The Petitioner is apprehending his arrest in a case
registered for the offences punishable u/s 272, 273/34 of the
Indian Penal Code and 30(a), 32, 36, 41 (i)(ii) of the Bihar
Prohibition and Excise Act.

As per the prosecution case, total 2064 litres spirit
was recovered from the truck.

Learned counsel for the petitioner has submitted that



the petitioner has falsely been implicated in this case. The name of the petitioner was disclosed on the basis of the statement made by the co-accused. The petitioner has no concern with the alleged recovery. The petitioner is neither the driver nor the owner of the said truck. The petitioner has two other criminal antecedents 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 A.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 material available on record, let the above named petitioner, in the event of his arrest/surrender within a



period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, East Champaran at Motihari in connection with Kotwa P.S. Case No. 468 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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