

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76404 of 2023

Arising Out of PS. Case No.-481 Year-2023 Thana- KADAMKUAN District- Patna

TISHU RANJAN KUMAR Son of Rajkishore Prasad R/o Village - Nadha,
P.S.- Hilsa, District - Nalanda.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Meena Singh, A.P.P.

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

ORAL ORDER

2 14-12-2023 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.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

3. The Petitioner is apprehending his arrest in connection with Kadamkuan P.S Case No. 481 of 2023 dated 10.08.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, 03.750 litres of illicit liquor was recovered from a scooty bearing Registration No. BR01FV8460 of the petitioner and 3 litres of illicit liquor from a E-scooty and 3.60 litres of English liquor from a bag hung on



the handle of Bullet Motorcycle bearing Registration No. BR01DY7042 were recovered. It is further alleged that on search of the house total 1203.70 litres of illicit liquor was recovered.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that the petitioner is the registered owner of the scooty bearing Registration No. BR01FV8460 but the same was not being driven at the time of alleged recovery. It is further submitted that the petitioner was not apprehended on the spot. Learned counsel has further submitted that the petitioner has no concern with the place where the liquor was seized. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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.

6. 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.

7. 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 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, Patna in connection with Kadamkuan P.S Case No. 481 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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