

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.661 of 2023**

Arising Out of PS. Case No.-569 Year-2018 Thana- DEHRI TOWN District- Rohtas

SUDHIR RAJ CHAURASIYA SON OF KANHAIYA PRASAD  
CHAURASIYA R/O VILL.- LEBURA KALYANPUR, P.S.- ROHTAS,  
DISTT.- ROHTAS

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Rabindra Kumar

For the Opposite Party/s : Mr.Sucheta Yadav

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

ORAL ORDER

2      10-02-2023                      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  
  
Special Public Prosecutor for the State.

The Petitioner is apprehending his arrest in a case  
  
registered for the offences punishable u/s 30(a), 38(i)(ii), 41(i)  
  
(ii) of Bihar Prohibition and Excise Act.

As per the prosecution case, total 384 bottles  
  
containing whisky was recovered from the Maruti Alto.

Learned counsel for the petitioner has submitted that  
  
the petitioner has falsely been implicated in this case. The  
  
petitioner was doing the work of recce and on seeing the police,



the petitioner and the co-accused persons fled away leaving motorcycle and Maruti Alto. Nothing has been recovered from the conscious possession of the petitioner. No case is made out against the petitioner. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. 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.

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 nature of allegation, 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



learned Court concerned, Rohtas in connection with Dehri Town P.S. Case No. 569 of 2018, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure with a condition:-

1. The court below shall verify the criminal antecedent of the petitioner and at any stage, if it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands allowed.

**(Chandra Prakash Singh, J)**

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