

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77831 of 2023

Arising Out of PS. Case No.-48 Year-2016 Thana- NAUTAN District- West Champaran

Dinesh Prasad S/O Daroga Sah Village- Ward No. 14, Ilamramchowk, Ganj
No. 1, Ps. Bettiah Town, Dist. West Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anant Kumar Mishra, Adv.

For the Opposite Party/s : Mr.Sanjay Kumar Sharma, APP

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

ORAL ORDER

2 21-12-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Nautan (Jagdishpur O.P.) P.S. Case No. 48 of 2016 dated 03.03.2016 for the offences punishable u/ss 467, 468, 471, 420, 307, 120B, 414, 272, 273 of the Indian Penal Code and u/ss 47(A) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 3800 litres of wine was recovered from the underground tank belonging to the co-accused person Indrashan Sah.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has three criminal antecedent as stated in para 3 of the



bail petition. The petitioner is not named in the F.I.R. The name of the petitioner has sprung up in the confessional statement of the co-accused. Nothing has been recovered from the possession of the petitioner, hence no case is made out against the petitioner. It is further submitted that the petitioner has no concern with the alleged recovery. The co-accused persons have already been granted bail by the Coordinate Bench of this court vide order dated 10.04.2017 passed in Cr. Misc. No. 16408 of 2017. 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.

5. 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.

6. 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, Bettiah, West Champaran in connection with Nutun (Jagdishpur) (O.P.) P.S. Case No. 48 of 2016, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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