

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.652 of 2023

Arising Out of PS. Case No.-386 Year-2022 Thana- GURUA District- Gaya

LAVKUSH CHAUDHARY S/o Karu Chaudhary R/v- Itahari, P.S.- Gurua,
District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Sinha

For the Opposite Party/s : Mr.Shaheen Begum

**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) of Bihar Prohibition and Excise Act.

As per the prosecution case, total 73.53 litres foreign liquor was recovered from the Hero Honda Glamour motorcycle and Bajaj Maxima tempo.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing



has been recovered from the conscious possession of the petitioner. No case is made out against the petitioner. The petitioner is neither driver nor owner of the said vehicle. The petitioner has no criminal antecedent as stated at 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, Gaya in connection with Gurua P.S. Case No. 386 of 2022, 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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