

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.212 of 2023

Arising Out of PS. Case No.-60 Year-2022 Thana- DEEPNAGAR District- Nalanda

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MANJEET KUMAR @ MANJEET SINGH @ BABA, S/o Uday Rai @
Uday Yadav, R/o Village- Maujipur, P.S.- Nadi, Distt- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Man Mohan Kumar, Advocate

For the Opposite Party/s : Mr.Suresh Prasad Singh, APP

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**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 30(a), 32(i)(ii), 36 and
41(i) of the Bihar Prohibition and Excise Act.

As per the prosecution case, 322.08 litres of illicit
foreign liquor was recovered from a vehicle. The name of the
petitioner surfaced in this case only on the basis of the
disclosure made by the apprehended person.



Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has got criminal antecedent as stated in para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioner. He has further submitted that the said vehicle was not being driven by the petitioner at the time of occurrence. The petitioner is the owner of the said vehicle and he had no knowledge regarding the presence of liquor in the said vehicle. 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 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 against the petitioner, let the above named petitioner, in the event of his/her arrest/surrender within a period of six weeks from today, be enlarged on 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, Nalanda at Biharsharif in connection with Deepnagar P.S. Case No. 60 of 2022, subject to conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

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