

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76715 of 2023

Arising Out of PS. Case No.-158 Year-2023 Thana- GANGABRIDGE District- Vaishali

Rajeev Kumar S/O Kailash Singh @ Bhuttu Singh R/O Village-
Sahdullahpur, P.S- Ganga Bridge, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 81646 of 2023

Arising Out of PS. Case No.-158 Year-2023 Thana- GANGABRIDGE District- Vaishali

Chunnu Kumar @ Baba Son Of Bacha Rai Singh @ Ram Pravesh Singh R/O
Vill.- Nawada Kala, P.S.- Ganga Bridge, Dist.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 76715 of 2023)

For the Petitioner/s : Mr.Anish Kumar

For the Opposite Party/s : Mr.Narsingh Tanti

(In CRIMINAL MISCELLANEOUS No. 81646 of 2023)

For the Petitioner/s : Mr.Anish Kumar

For the Opposite Party/s : Mr.Surendra Kumar

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

ORAL ORDER

2 18-12-2023 Learned counsel for the petitioners 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 petitioners and
learned Additional Public Prosecutor for the State.

3. The petitioners are apprehending their arrest in



connection with Ganga Bridge P.S. Case No. 158 of 2023 dated 22.07.2023 registered for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 1251.225 litres of Indian made Foreign liquor was recovered from a pickup van.

5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. The petitioners are neither the driver nor owner of the said vehicle. 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. The petitioner (Rajeev Kumar) is accused in seven other criminal cases whereas the petitioner (Chunnu Kumar) is accused in eight other criminal cases as stated in para 3 of the bail petition.

6. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioners 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 petitioners, let the above named petitioners, in the event of their 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) each with two sureties of the like amount each to the satisfaction of learned Court concerned, Vaishali at Hajipur in connection with Ganga Bridge P.S. Case No. 158 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure, with further condition:-

(i) The petitioners are directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioners are liable to be cancelled.

8. This application stands allowed.

(Chandra Prakash Singh, J)

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