

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9890 of 2024

Arising Out of PS. Case No.-181 Year-2023 Thana- BAKHTIYARPUR District- Patna

Lalu Kumar S/O Bute Lal Rai R/O Naya Tola Raghapur, P.S- Bakhtiyarpur,
Distt.- Patna.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Niranjan Prasad Singh, Adv.

For the Opposite Party/s : Mr. Anish Chandra, APP.

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

ORAL ORDER

2 23-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in connection with Bakhtiyarpur P.S. Case No. 181 of 2023 dated 05.05.2023 for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 20 litres of illicit country made liquor was recovered near the *bhatti*.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The recovery was made from an open place that is accessible to anyone. The petitioner



has no concern with the alleged recovery. The name of the petitioner was disclosed by local people and Chaukidar. The petitioner has four other criminal antecedents of similar nature in which the petitioner is on bail as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. The co-accused Tuntun Yadav and Setha Rai have already been granted anticipatory bail vide Cr. Misc. No. 64580 of 2023 by a Co-ordinate Bench of this Court. 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 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 material available on record, 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, Barh in connection with Bakhtiyarpur P.S. Case No. 181 of 2023, 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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