

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4312 of 2024

Arising Out of PS. Case No.-109 Year-2023 Thana- KANHAULI District- Sitamarhi

Chunchun Rai @ Krishna Nandan Rai @ Krisnandn Kumar S/O JOGINDRA
RAY @ GAJENDRA RAI VILLAGE- BHARSAND, WARD NO. 06, PS.
KANHAULI, DIST. SITAMARHI-843317.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Subodh Kumar, Adv.

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

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

ORAL ORDER

2 12-02-2024 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 Kanhauli P.S. Case No. 109 of 2023 dated
01.07.2023 for the offence/s punishable u/s 30(a) of the Bihar
Prohibition and Excise Act.

3. As per the prosecution case, total 1560 litres of
illicit Nepali liquor was recovered from a Pickup van.

4. Learned counsel for the petitioner has submitted
that the petitioner has falsely been implicated in this case. No
incriminating material has been recovered from the conscious
possession of the petitioner. The petitioner is neither the owner
nor the driver of the said vehicle. The petitioner has no concern



with the alleged recovery. The apprehended co-accused persons disclosed the name of the petitioner. Similarly situated co-accused person has already been granted anticipatory bail by the co-ordinate bench of this Court vide order 06.12.2023 dated passed in Cr. Misc. No. 74991 of 2023. The petitioner has two other criminal antecedents as stated in para 3 of the bail petition. 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 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, Sitamarhi in connection with Kanhauli P.S. Case No. 109 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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