

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3746 of 2024

Arising Out of PS. Case No.-388 Year-2023 Thana- RIGA District- Sitamarhi

Jai Prakash Paswan @ Jai Prakash Kumar Son of Kedar Paswan R/o vill -
Ranjitpur Purvi, P.S. - Punaura, Distt. - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs.Smiti Bharti, Adv.
For the Opposite Party/s : Mrs.Meena Singh, APP

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

ORAL ORDER

2 09-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Learned counsel for the petitioner is permitted to
make necessary correction in paragraph no. 1 of the bail petition
in course of the day.

3. The petitioner is apprehending his arrest in
connection with Riga P.S. Case No. 388 of 2023 dated
19.09.2023 for the offences punishable u/s 414 of the Indian
Penal Code and u/s 30(a) of the Bihar Prohibition and Excise
Act.

4. As per the prosecution case, total 420 litres of illicit
Nepali liquor was recovered from a Scorpio vehicle and 12 litres
of illicit Nepali liquor was recovered from the apprehended



co-accused person.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner has sprung up in the confessional statement of the apprehended person, Suraj Paswan. The petitioner is not the owner of the said vehicle and the same was not being driven by the petitioner at the time of the alleged recovery. It is further submitted that the petitioner has no concern with the alleged recovery. Nothing 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.

6. 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.

7. 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 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 Riga P.S. Case No. 388 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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