

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.5831 of 2024**

Arising Out of PS. Case No.-208 Year-2019 Thana- DAWATH District- Rohtas

Mukesh Kumar @ Mukesh Yadav Son of Bir Bahadur Yadav @ Beer Bahadur Singh Resident of Village - Kirni, P.S.- Nawanagar, District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Ajay Kumar Tiwari

For the Opposite Party/s : Mr.Md. Matloob Rab

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

ORAL ORDER

2      16-02-2024                      Learned counsel for the petitioner is directed 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 petitioner and learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in connection with Dawath P.S. Case No. 208 of 2019, dated 22.12.2019, for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

4. As per the prosecution case, total 4112.64 litres of english liquor was recovered from a truck, bolero, Scorpio, Bolero Picv up Van and School premise (Bramda).

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 of similar nature in which he is on bail as stated in para 3 of the bail petition. The name of the petitioner has sprung up in the confessional statement of the co-accused Arun Kumar. No incriminating material has been recovered from the conscious possession of the petitioner, hence 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.

6. Learned APP 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, Rohtas at Sasaram in connection with Dawath P.S. Case No. 208 of 2019 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)**

Ranjeet/-

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