

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4805 of 2024

Arising Out of PS. Case No.-206 Year-2023 Thana- TANKUPPA District- Gaya

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SUBODH YADAV SON OF LATE SATENDRA YADAV RESIDENT OF
VILLAGE - DEWRA, P.S. - TANKUPPA, DISTRICT - GAYA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vijay Kumar

For the Opposite Party/s : Mr.Dashrath Mehta

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

ORAL ORDER

2 13-02-2024 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 Tankuppa P.S. Case No. 206/2023, dated
16.10.2023, for the offences punishable under Section 30(a) of
the Bihar Prohibition and Excise Amendment Act, 2023.

4. As per the prosecution case, total 200 litres of
country made Mahua liquor has been recovered from two plastic
bora tied on a motorcycle.

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 as stated in para 3 of the bail petition in which he is on bail. The name of the petitioner was disclosed by the local people as he was driver of the said motorcycle. The petitioner is not the owner of the said motorcycle. 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, Gaya in connection with Tankuppa P.S. Case No. 206/2023, 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)

Ranjeet/-

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