

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5042 of 2024

Arising Out of PS. Case No.-1706 Year-2023 Thana- Excise P.S. District- Gaya

Vinod Kumar Pandey @ Vinod Kr. Pandey S/O Raj Narayan Pandey R/O Sri Krishna Nagar, Bharamharsi Chowk, P.S.-Town, District-Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 15-02-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Excise P.S. Case No. 1706 of 2023 dated 27.09.2023 of the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act 2016.

3. As per the prosecution case, total 181.50 litres of illicit foreign liquor was recovered from a *sumo gold vehicle*.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal case as stated at para 3 of the bail petition. The petitioner is not named in the F.I.R. and the name of the petitioner has transpired in this case only on the



basis of the owner of the said vehicle. The petitioner is the owner of the said vehicle but the same was not being driven by the petitioner at the time of the alleged recovery. No incriminating article 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.

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 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.



7. This application stands allowed.

jyoti/-

U		T	
---	--	---	--

