

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5521 of 2024

Arising Out of PS. Case No.-149 Year-2023 Thana- BALIGAON District- Vaishali

Arvind Kumar S/o Darpi Paswan @ Darfi Paswan @ Dafi Paswan R/o
Village Digha Fatahpur, Police Station Baligaon, District Vaishali

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar S.K., Adv.

For the Opposite Party/s : Mr. Yogendra Kumar Singh, APP.

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

ORAL ORDER

2 16-02-20 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 Baligaon P.S. Case No. 149 of 2023 dated 17.10.2023 for the offences punishable u/s 272, 273/34 of the IPC and u/s 30(a), 32(ii), 41(i) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. As per the prosecution case, total 258.84 litres of illicit foreign liquor was recovered from the house of the co-accused Ram Nath Kumar.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the



conscious possession of the petitioner. The recovery was made from the house of the co-accused. The petitioner has no concern with the alleged recovery. The name of the petitioner has transpired in the confessional statement of the co-accused Ram Nath Kumar. The petitioner has two criminal antecedent 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, Vaishali in connection with Baligaon P.S. Case No. 149 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition/s:-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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