

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5937 of 2024

Arising Out of PS. Case No.-662 Year-2023 Thana- Excise P.S. District- Madhubani

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Amit Raj Son Of Arun Kumar Das @ Arun Das Resident Of Village- Nagdah,
Bichala Tola, Ps- Begusarai Distt- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Jha
For the Opposite Party/s : Mr.Bishweshwar Ram

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**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 G.O. Case No. 3501/2023, arising out of Sadar
Excise P.S. Case No. 662 of 2023, dated 05.11.2023, for the
offences punishable under Section 30(a) of the Bihar Prohibition
and Excise Act.

4. As per the prosecution case, total 172.305 litres of
foreign liquor has been recovered from the car.

5. 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 antecedent as stated in para 3 of the bail petition. The petitioner has been made accused in the present case because he is owner of the said car but at the time of alleged occurrence, the car was not being driven by the petitioner. 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, Madhubani in connection with G.O. Case No. 3501/2023, arising out of Sadar Excise P.S. Case No. 662 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)

Ranjeet/-

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