

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10661 of 2024

Arising Out of PS. Case No.-341 Year-2023 Thana- SARAI RANJAN District- Samastipur

Dinesh Kumar Sharma @ Dinesh Sharma S/O Late Kunjbihari Sharma
Resident Of Morwa Raytola @ Morwa Ray Toli, Ps. Musrigharari, Dist.
Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sushil Jha

For the Opposite Party/s : Mr.Anand Kishore Choudhary

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

ORAL ORDER

2 26-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Sarairanjan P.S. Case No. 341 of 2023 dated 07.12.2023 of the offences punishable u/s 30(a)/ 41 (2) (I) of the Bihar Prohibition and Excise Amendment Act 2022.

3. As per the prosecution case, total 1350 litres of illicit foreign liquor was recovered from a Mini Truck.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has seven criminal antecedents as stated at para 3 of the bail petition. The name of the petitioner was disclosed by the apprehended person. The petitioner had sold



the vehicle in the year 2018 to one *Deepak Kumar*. The petitioner is not the owner of the said vehicle and 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 petitioners, 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. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Samastipur in connection with Sarairanjan P.S. Case No. 341 of 2023 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with the following conditions :-

(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, his bail bonds are liable to be cancelled.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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