

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7717 of 2024

Arising Out of PS. Case No.-442 Year-2022 Thana- DIGHA District- Patna

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MUKESH KUMAR SON OF SHRAVAN PRASAD R/O-ANANDI
APARTMENT, FLAT NO. 206, ARA GARDEN ROAD, TARKESHWAR
NAGAR COLONY, RUKUNPURA, P.O.-BIHAR VETERINARY
COLLEGE, P.S.-RUPASPUR, DANAPUR, PATNA-800014

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Amaresh Kumar Sinha

For the Opposite Party/s : Mr.Braj Kishore Pd.(App)

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

ORAL ORDER

2 20-02-2024 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 Digha P.S. Case No. 442 of 2022 dated
11.07.2022 for the offence/s punishable u/sa 30(a) and 37 of the
Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 750 litres of illicit
foreign liquor was recovered from the four wheeler Hyundai Car.

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 petitioner is the



registered owner of the said vehicle. The said vehicle was not being driven by the petitioner at the time of the alleged occurrence. It is further submitted that the said vehicle has already been sold by the petitioner prior to the alleged occurrence. The petitioner has no concern with the alleged recovery. The petitioner has no 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, Patna in connection with Digha P.S. Case No. 442 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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