

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9898 of 2024

Arising Out of PS. Case No.-860 Year-2023 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Amar Kumar Son of Devendra Mandal Resident of Village- Raghopur, P.S.-
Parbatta, District- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Jha, Adv.

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

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

ORAL ORDER

2 23-02-2024 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 Kotwali (Barari) P.S. Case No. 860 of 2023
dated 14.09.2023 for the offences punishable u/s 30(a), 32(i)(ii),
41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 159.39 litres of
illicit liquor was recovered from the Scorpio.

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 was the
owner of the seized vehicle but the seized vehicle was already



sold to one Pawan Kumar. The petitioner has no concern with the alleged recovery or the seized vehicle. The name of the petitioner was disclosed in this case by local people due to confusion. 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,
Bhagalpur in connection with Kotwali (Barari) P.S. Case No.
860 of 2023, 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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