

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15079 of 2024

Arising Out of PS. Case No.-2 Year-2024 Thana- KHAJEKALA District- Patna

Naresh Mahto @ Ram Naresh Mahto @ Ramnaresh Mahto Son of Late
Mahendra Mahto Resident of Diwan Mohalla, Shish Mahal, Hamampar, P.S.-
Khajekala, Dist.- Patna

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Pradhan, Adv
For the Opposite Party/s : Mr. Md. Matloob Rab, APP

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

ORAL ORDER

2 07-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Khajekala P.S. Case No. 02 of 2024 dated 01.01.2024 of the offences punishable u/s sections 30(a) of the Bihar Prohibition and Excise Act 2016.

3. As per the prosecution case, total 23.4 litres of illicit country made liquor was recovered from the hut in front of the house of the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has three criminal cases as stated in para 3 of the bail petition. The name of the petitioner was



disclosed on the basis of the suspicion. It is submitted that the petitioner is not the owner of the said hut. No incriminating article has been recovered from the conscious possession of the petitioner, 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 petitioners, 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 City, in connection with Khajekala P.S. Case No. 02 of
2024 subject to conditions as laid down under section 438(2) of
the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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