

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15811 of 2024

Arising Out of PS. Case No.-303 Year-2023 Thana- RAJEPUR District- East Champaran

Kameshwar Rai Son of Late Nanhak Rai Resident of Village- Saraiya, P.S.-
Rajepur, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Abhishek Kumar, Adv.
		Ms. Rashmi Jhaa, Adv.
For the Opposite Party/s :		Mr.Ramesh Chandra, APP

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

ORAL ORDER

2 12-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his/her arrest in a case in connection with Rajepur P.S. Case No. 303 of 2023 dated 24.12.2023 for the offence/s punishable u/ss 272 and 273 read with section 34 of the IPC and sections 30(a), 32, 36 and 41(i) of the Bihar Prohibition and Excise Act and 25(1-B) (a), 26 and 35 of the Arms Act.

3. As per the prosecution case, total 229.155 litres of illicit foreign liquor and a rusted country made gun were recovered from the field of the petitioner.

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 recovery was made from an open place that is accessible to anyone. 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 the record, let the above named petitioner, in the event of his/her 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, Motihari, East Champaran in connection with Rajepur P.S. Case No. 303 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition/s:-

(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, the bail bond of the petitioner is liable to cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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