

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20401 of 2024

Arising Out of PS. Case No.-1281 Year-2023 Thana- KHAGARIA District- Khagaria

Rohit Noniya Son of Shankar Noniya Resident of vill.-Dannagar, Ward
No.14, P.S. and Distt.-Khagaria

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amar Kumar Singh, Adv.

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

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

ORAL ORDER

2 29-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Khagaria P.S. Case No. 1281 of 2023 dated 19.12.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 7.2 litres of illicit English liquor kept in a bag was recovered from a roof which was allegedly thrown by 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 five criminal antecedents as stated in para 3 of the bail petition. The name of the petitioner has



transpired in this case merely on suspicion. It is further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from a roof of the house of Rajesh Nonia who is the neighbour of this petitioner. Learned counsel has further submitted that the said liquor was not thrown by the petitioner. Nothing 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 material available on the 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, Khagaria in connection with Khagaria P.S. Case No. 1281 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition :-

(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 prosecution will be at liberty to move for cancellation of his bail bond.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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