

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.18545 of 2024**

Arising Out of PS. Case No.-309 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.  
District- Gaya

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Kailash Kumar Son of Baleshwar Saw R/o Village- Dhawaya Dih, Near Birsa  
Vidhya Mandir, P.S.- Mandu Chhotki Dundi, Dist.- Ramgarh, Jharkhand

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Sanjay Kumar  
For the Opposite Party/s : Mr.Asha Kumari

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

ORAL ORDER

2      19-03-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Excise P.S. Case No. 309 of 2019, for the offences punishable under Sections 30(a) & 56(b) of the Bihar Prohibition and Excise Amendment Act, 2018.

3. As per prosecution case, total 280 litres of wine has been recovered from a Wagonr car.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is made accused in the present case because he is owner of the said vehicle but the said



vehicle was not being driven by the petitioner at the time of alleged occurrence. Nothing has been recovered from the conscious possession of the petitioner, hence 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 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 APP 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 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, Gaya in connection with Excise P.S. Case No. 309 of 2019, 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)**

Ranjeet/-

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