

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18309 of 2024

Arising Out of PS. Case No.-307 Year-2023 Thana- KALYANPUR District- Samastipur

Baidhnath Ray @ Baidyanath Ray @ Baijnath Ray Son Of Sri Gulab Ray
Resident Of Village- Ward No. 2, Purnahi, Ps- Warisnagar, Dist- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satyabir Bharti, Adv.

For the Opposite Party/s : Mr.Dr.Mrityunjaya Kr.Gautam, APP

**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 Kalyanpur P.S. Case No. 307 of 2023 dated 17.10.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 6660 litres of illicit foreign liquor was recovered from the three vehicles. Two motorcycles were also recovered from the godown.

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



transpired in this case merely on suspicion. The petitioner is not the owner of the said vehicles and the same was not being driven by the petitioner at the time of the alleged recovery. It is further submitted that the said godown does not belong to 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, Samastipur in connection with Kalyanpur P.S. Case No. 307 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further conditions :-

- (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.
- (ii) If the petitioner is found involved in any other criminal case in future, his bail bond is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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