

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29939 of 2024

Arising Out of PS. Case No.-64 Year-2023 Thana- MAKER District- Saran

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Bipin Kumar @ Bipin Sahani Son Of Mohar Sahani Resident Of Village-
Barhichak, Ps- Maker, Dist- Saran At Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dewendra Narayan Singh

For the Opposite Party/s : Mr.Braj Kishore Pd.(App)

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

ORAL ORDER

2 23-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Learned counsel for the petitioner has filed
Supplementary Affidavit during the course of the day which is
kept on the record.

3. The petitioner is apprehending his arrest in
connection with Maker P.S. Case No. 64/2023 dated 23.04.2023
for the offences punishable u/s 30(a) of the Bihar Prohibition
and Excise Act.

4. As per the prosecution case, total 30 litres of illicit
country-made liquor was recovered from the bag which was
alleged to be thrown by the petitioner.

5. 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 antecedents as stated in the Supplementary Affidavit. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The said liquor was not thrown by 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.

6. 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.

7. 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, Saran at Chapra in connection with Maker P.S. Case No. 64/2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. This application stands allowed.

(Chandra Prakash Singh, J)

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