

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23413 of 2024

Arising Out of PS. Case No.-320 Year-2023 Thana- RAGHOPUR District- Vaishali

Akalesh Ray @ Aklesh Ray @ Akalesh Kumar son of Ram Jee Ray resident
of Jafarabaad Tok PS- Raghopur Rustampur OP Distt- Vaishali

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Yadav, Adv.

For the Opposite Party/s : Mr.Bhanu Pratap Singh, APP

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

ORAL ORDER

2 20-03-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in
connection with Raghopur (Rustampur O.P.) P.S. Case No. 320 of
2023 dated 30.12.2023 registered for the offences punishable u/s
30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 415 litres of illicit
country made liquor was recovered from the bush at Jafrabad
Baburbani.

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 name of the petitioner has



surfaced in this case merely on suspicion. The petitioner has no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused persons have already been granted anticipatory bail by this court vide order dated 12.03.2024 passed in Cr. Misc. No. 15692 of 2024. 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 bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of learned court concerned, Hajipur at Vaishali in connection with Raghapur (Rustampur O.P.) P.S. Case No. 320 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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