

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29867 of 2024

Arising Out of PS. Case No.-311 Year-2023 Thana- PARANDABAR District- Nawada

Nitish Kumar son of Kuldeep Yadav @ Kuldip Prasad Yadav Village- Koriya
Ps- Gurupa OP Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Asha Devi, APP

**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. The Petitioner is apprehending his arrest in connection with Parnadabar P.S. Case No. 311 of 2023 dated 29.11.2023 of the offences punishable u/s 30(a) and 41 of the Bihar Prohibition and Excise Act 2016.

3. As per the prosecution case, total 720 litres of illicit country made liquor was recovered from the *seven motorcycles*.

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 case as stated in para 3 of the bail petition. The name of the petitioner has transpired in this case only on the basis of owner of one of the seized



motorcycle but the same was not being driven by him at the time of the alleged recovery. No incriminating article 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 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



