

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26565 of 2024

Arising Out of PS. Case No.-97 Year-2024 Thana- Excise P.S. District- Begusarai

Sanjay Kumar Choudhary @ Sanjay Kumar Chaudhary Son Of Basant Choudhary Resident Of Village- Saraunja, (SAROUNJA), Ps- Birpur, Dist- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sandip Kumar Gautam

For the Opposite Party/s : Mr.Pradeep Narain Kumar

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 22-04-2024 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Excise P.S. Case No. 97/2024 dated 26.02.2024 for the offences punishable u/ss 30(a) and 32(3) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 207 litres of illicit foreign liquor was recovered from the Bolero pick up van.

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. No incriminating article has been recovered from the conscious possession of the petitioner, hence



no case is made out. The apprehended persons, Ritik Kumar and Satyam Kumar have disclosed to police that the petitioner is not owner of the said vehicle rather one Niraj Kumar is the owner of the said vehicle. 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



amount each to the satisfaction of the learned court concerned,
Begusarai in connection with Excise P.S. Case No. 97/2024,
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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