

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32813 of 2024

Arising Out of PS. Case No.-2339 Year-2023 Thana- Excise P.S. District- Muzaffarpur

Raj Kumar Sah Son of Ram Chandra Sah Resident of Village - Ganj Bazar,
Minapur, P.S. - Minapur, District - Muzaffarpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok, Adv.

For the Opposite Party/s : Mr. Rajendra Singh Shastri, APP

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

ORAL ORDER

2 26-07-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his/her arrest in a case in connection with Excise P.S. Case No. 2339 of 2023 dated 11.12.2023 for the offence/s punishable u/s 30(a) and 32(3) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 8301.96 litres of illicit was recovered from the truck and two 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 was neither arrested on the spot nor any incriminating article was recovered from his conscious possession. The petitioner has no concern with the alleged



recovery. The petitioner is neither the owner nor the driver of the said vehicle. The apprehended co-accused person disclosed the name of the petitioner. The petitioner has two criminal antecedent as stated in para 2 of the supplementary affidavit. The similarly situated co-accused has been granted bail vide order dated 22.02.2024 in Cr. Misc. No. 9450 of 2024. Learned counsel has submitted that no case is made out against 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 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 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, Muzaffarpur in connection with Excise P.S. Case No. 2339 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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