

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30119 of 2024

Arising Out of PS. Case No.-33 Year-2024 Thana- BAIKUNTHPUR District- Gopalganj

Guddu Rai S/o- Ram Ayodhya Rai village- Banaur, P.S.- Baikunthpur,
District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sachina

For the Opposite Party/s : Mr.Damodar Prasad Tiwary

**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 Baikunthpur P.S. Case No. 33 of 2024, dated 03.02.2024 for the offences punishable under Sections 30(a) and 41 of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 985 litres of illicit spirit was recovered from a pickup van and two 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 four criminal antecedents in which he is on bail as stated in para 3 of the bail petition. The apprehended co-accused persons disclosed the name of the



petitioner due to previous enmity. The petitioner is neither the owner nor the driver of the seized vehicles. Nothing has been recovered from the conscious possession of the petitioner, hence 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 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 APP 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, Gopalganj in connection with Baikunthpur P.S. Case No. 33 of 2024, 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)

Ranjeet/-

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