

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27418 of 2024

Arising Out of PS. Case No.-140 Year-2023 Thana- PUSA District- Samastipur

Chhotu Rai @ Abhishek Kumar S/o- Lal Babu Ray @ Lal Bahadur Rai Vill-
Gangapur, Ps- Tajpur Waini OP Dist- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Sanjay Kumar, APP.

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

ORAL ORDER

2 27-06-2024 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 Pusa P.S. Case No. 140 of 2023 dated
20.12.2023 for the offences punishable u/s 30(a) of the Bihar
Prohibition and Excise Act.

3. As per the prosecution case, total 652.68 litres of
illicit foreign liquor was recovered near the *bathan* of the co-
accused, Sanjay Kumar.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. The recovery was made from an open place that is
accessible to anyone. Local Chaukidar disclosed the name of the



petitioner. The petitioner has no concern with the alleged recovery. The co-accused has already been granted anticipatory bail vide order dated 13.03.2024 passed in Cr. Misc. No. 16382 of 2024 by this Bench. The petitioner has three other criminal cases against him in which he is on bail as stated in para 3 of the bail petition. 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, Samastipur in connection with Pusa P.S. Case No. 140 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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