

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29353 of 2024

Arising Out of PS. Case No.-243 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Begusarai

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Guddu Kumar @ Guddu Mahto S/O Pashupati Mahto @ Pashupati Rai R/O
Village- Suja Ward No. 13, P.S- Muffasil, Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sabal Kumar Jha, Adv
For the Opposite Party/s : Mr. Upendra Kumar, APP

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**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. 243 of 2020 dated 27.12.2023 of the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act 2018.

3. As per the prosecution case, total 6.75 litres of illicit country made liquor was recovered from the *dilapidated house* located near the house of the petitioner.

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. The petitioner is not the owner of the



said house. The name of the petitioner has transpired in this case only on the basis of suspicion. 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 her 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. 243 of 2020
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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