

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28854 of 2024

Arising Out of PS. Case No.-161 Year-2023 Thana- BARAHAT District- Banka

Abinash Kumar@ Avinash Kumar Son Of Kishun Choudhary Resident Of
Village- House No. 12 And 15 Ward No 16, Bompas Town, Deoghar Ps-
Tondradih, Dist- Deoghar (B. Deoghar), Jharkhand.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha

For the Opposite Party/s : Mr. Ajay Kumar No. 2

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

ORAL ORDER

2 20-04-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Barahat P.S. Case No. 161 of 2023, vide Spl. Ex. Case No. 404/2023, dated 24.07.2023 for the offences punishable under Sections 30(a)/ 32(2) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 268.560 litres of illicit foreign made liquor was recovered from a car.

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 name of the petitioner has



transpired in this case because he is the registered owner of the seized car but the same was not being driven by the petitioner at the time of the alleged recovery. 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, Banka in connection with Barahat P.S. Case No. 161 of 2023, vide Spl. Ex. Case No. 404/2023, 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)

Ranjeet/-

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