

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29311 of 2024

Arising Out of PS. Case No.-214 Year-2021 Thana- FATUA District- Patna

Shyam Prasad Son of Late Ram Chandra Sao Resident of village- Govindpur
Kali Sthan, P.S.- Fatuah, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravish Mishra, Adv

For the Opposite Party/s : Mr. Ramchandra Sahni, APP

**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 Fatuha P.S. Case No. 214 of 2021 dated 16.03.2021 of the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act 2018.

3. As per the prosecution case, total 1.5 litres of illicit country made liquor was recovered from the possession of the co-accused namely Amit Kumar and Bittu Kumar who were loaded on the motorcycle and 13.5 litres of illicit country made liquor was recovered from the potato shop, Kali Asthan Fatuha.

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 was disclosed by the apprehended person. The petitioner is not the owner of the said vehicle and the same was not being driven by him at the time of the alleged recovery. 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 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, Patna City, in connection with Fatuha P.S. Case No. 214 of 2021 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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