

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30184 of 2024

Arising Out of PS. Case No.-315 Year-2022 Thana- KHAGARIA District- Khagaria

Vikram Mahto @ Vikram Kumar Son Of Saheb Mahto Resident Of Village
Uttari Bhadas,P.S.- Khagaria,Dist-Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Choudhary, Advocate

For the Opposite Party/s : Mrs. Sharda Kumari, APP

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

ORAL ORDER

2 19-07-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Khagaria (Mufassil) P.S Case No. 315/2022 dated 13.04.2022 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 5139 litres of illicit foreign liquor was recovered from the truck and pick up van.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has two criminal antecedents and he is on bail in both the aforesaid cases as stated in para 3 of the bail



petition. 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. The petitioner is neither the owner nor the driver of the said vehicles. The other co-accused person has already been granted bail by the Co-ordinate Bench of this court *vide* order dated 17.05.2023 passed in Cr. Misc. No. 23445/2023.

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, Khagaria in connection with Khagaria (Mufassil) P.S Case No. 315/2022, 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)

atul/-

U		T	
---	--	---	--

