

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30327 of 2024

Arising Out of PS. Case No.-164 Year-2023 Thana- MATIHANI District- Begusarai

Sikandar Kumar @ Karan Sah @ Kanar Kumar, aged about 24 years, Male,
Son of Pankaj Sah, Resident of Village- Chitraur, Police Station - Matihani,
District- Begusarai.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mrs. Asmita Bharti, Advocate
For the Opposite Party : Mr. Mohammed Arif, A.P.P.

**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 Matihani P.S. Case No. 164 of 2023 dated 05.11.2023 of the offences punishable u/s 30(a), 30 (c) of the Bihar Prohibition and Excise Act 2018.

3. As per the prosecution case, total 75 empty bottle of illicit foreign liquor, 413 pieces of bottle caps, 24 litres of illicit liquor which were kept in plastic bag, 15 litres of spirits, and iron machines were recovered from the house of the co-accused *Dinkar Kumar*.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. The name of the petitioner was disclosed by the co-accused Dinkar Kumar. The petitioner has one criminal antecedent as stated at 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. The other co-accused person has already been granted bail by this Court vide order dated 26.02.2024 passed in Cr. Misc. No. 10608 of 2024. 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, Begusarai, in connection with Matihani P.S. Case No. 164 of 2023 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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