

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31141 of 2024

Arising Out of PS. Case No.-15 Year-2024 Thana- KAUWAKOL District- Nawada

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Pawan Kumar Singh @ Pawan Singh, aged about 50 years, Male, S/o Radhe Shyam Singh, Village- Rampur Balua, P. S.- Kowakole, Dist- Nawada.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Shankar Kumar, Advocate
For the Opposite Party : Mr. Sharda Kumari, A.P.P.

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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 a case in connection with Kawakole P.S. Case No. 15 of 2024 (5136011240015) dated 07.01.2024 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 95 litres of illicit country made liquor was recovered from the three different motorcycles.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is not named in the F.I.R. The name of the petitioner has been sprung up in the confessional statement



of the co-accused who has been apprehended from the spot. It is further alleged that the petitioner is the owner of one of the said seized vehicle. No incriminating material has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has clean antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. The co-accused person has already been granted anticipatory bail by this Court vide order dated 14.03.2024 passed in Cr. Misc. No. 17033 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 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 material available on the record, 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, Nawada in connection with Kawakole P.S. Case No. 15 of 2024 (5136011240015), 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)

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