

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33039 of 2024

Arising Out of PS. Case No.-255 Year-2023 Thana- ARWAL District- Jehanabad

Rajjak Kha Son of Yakub Kha Resident of Mohalla- Kachhi Pachor, Ward No.
14, Police Station- Pachore, District- Rajgarh (Madhya Pradesh)

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Akash Kumar Mishra, Adv.

For the Opposite Party/s : Mr.Parmanand Prasad, APP

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

ORAL ORDER

3 26-07-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Arwal P.S. Case No. 255 of 2023 dated 19.05.2023 for the offences punishable u/ss 30(a) and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 6068 litres of illicit foreign liquor was recovered from the truck which was being driven by the co-accused.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. The name of the petitioner has transpired in this



case only on the basis of the owner of the said vehicle but the said vehicle was not being driven by the petitioner 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. The co-accused person has already been granted regular bail by this court vide order dated 01.09.2023 passed in Cr. Misc. No. 58213 of 2023. 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, Jehanabad in connection with Arwal P.S. Case No. 255 of 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)

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