

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31869 of 2024

Arising Out of PS. Case No.-141 Year-2023 Thana- BALIYA District- Begusarai

Fantus Yadav @ Amit Kumar Son Of Kapil Dev Yadav Resident Of Fatehpur,
Ward No.15, Sadanandpur, P.S. - Baliya, District - Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Modassir Raza

For the Opposite Party/s : Mr.Suresh Prasad Singh

**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 Ballia P.S. Case No. 141 of 2023 dated 29.05.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 150 litres of illicit liquor has been recovered from the field of the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is accused in one more criminal case as stated at para 3 of the bail petition. The recovery is made from an open place which is accessible to anyone. 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 other co-accused person has already been granted bail by this court *vide* order dated 09.01.2024 passed in Cr. Misc. No. 80266/2023.

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,
Begusarai in connection with Ballia P.S. Case No. 141 of 2023,
subject to conditions as laid down under section 438(2) of the
Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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