

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32991 of 2024

Arising Out of PS. Case No.-71 Year-2024 Thana- BARGAINIA District- Sitamarhi

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Guddu Yadav @ Guddu Kumar SON OF MAHENDRA YADAV @
MAHENDRA RAI VILLAGE-Masha Alam, WARD NO.03, P.S.-
BAIRAGANIA,DIST- SITAMARHI

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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For the Petitioner/s :	Mr.Surendra Kishore Thakur, Adv.
For the Opposite Party/s :	Mr.Dr. Indiwari Kumari, APP

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

ORAL ORDER

2 23-05-2024 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 Bairagania P.S. Case No. 71 of 2024 dated
15.03.2024 registered for the offences punishable u/s 30(a) of
the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 286.8 litres of illicit
Nepali saufi liquor was recovered from the two motorcycles.

4. Learned counsel for the petitioner has submitted
that the petitioner has falsely been implicated in this case. The
petitioner has six criminal antecedents as stated in para 3 of the
bail petition. The name of the petitioner was disclosed by local
Chowidar. The petitioner is neither the owner nor the driver of
the said vehicles and the same was not being driven by the
petitioner at the time of the alleged recovery. Nothing has been



recovered from the possession of the petitioner, hence no case is made out against the petitioner. It is further submitted that the petitioner has no concern with the alleged recovery. 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 and 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 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, Sitamarhi in connection with



Bairagania P.S. Case No. 71 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition :-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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