

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35267 of 2024

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

Nitish Kumar SON OF Rajendra Yadav R/O Village Rampur Balua, P. S.
-Kowakole, DIST- NAWADA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shankar Kumar, Adv.

For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

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

ORAL ORDER

2 26-07-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his/her 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. No incriminating material has been recovered from the
conscious possession of the petitioner. The petitioner is not



named in the F.I.R. The petitioner is the owner of the said vehicle but the said vehicle was not being driven by the petitioner at the time of the alleged recovery. The petitioner has no concern with the alleged recovery. The petitioner has clean antecedent as stated in para 3 of the bail petition. 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 submitted that no case is made out against the petitioner. 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/her 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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