

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43161 of 2024

Arising Out of PS. Case No.-4 Year-2024 Thana- KUNDWACHAINPUR District- East
Champaran

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Shyam Sundar Kumar Son of Baiju Singh Resident of Village- kundwa
Chainpur, P.S- Parsa, Dist- East Champaran . Motihari

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar
For the Opposite Party/s : Mr.Pradeep Narain Kumar

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

ORAL ORDER

2 06-09-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Kundwa Chainpur P.S. Case No. 04 of 2024, for the offences punishable under Section 414/34 of the Indian Penal Code u/ss 30(a) and 41(1) of the Bihar Prohibition and Excise Act, 2016.

3. As per prosecution case, 243 litres of illicit Nepali Kasturi wine was recovered from a car.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner was



disclosed by local people. The petitioner is neither the owner nor the driver of the seized vehicle. Nothing has been recovered from the conscious possession of the petitioner, hence 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 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. Similarly situated co-accused has already been granted anticipatory bail by this court vide order dated 28.03.2024 passed in Cr. Misc No. 19829 of 2024.

5. Learned APP 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, East Champaran at Motihari in connection with Kundwa Chainpur P.S. Case No. 04 of 2024, 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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