

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37915 of 2024

Arising Out of PS. Case No.-274 Year-2023 Thana- PARSA District- Saran

Surendra Nut Son of Late Mohan Nut Resident of village - Parsa Shankar
Dih, Nut Toli, P.S. - Parsa, Dist.- Saran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh

For the Opposite Party/s : Mr.Indu Kumari Srivastava

**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 arrest in connection with Parsa P.S. Case No. 274 of 2023 dated 26.08.2023 of the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act 2018.

3. As per the prosecution case, total 20 litres of illicit country made liquor was recovered *near the pond behind the house of the petitioner.*

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



disclosed by the local chaukidar. Similarly situated co-accused has already been granted anticipatory bail by the co-ordinate bench of this court *vide* order dated 15.03.2024 passed in Cr. Misc. No. 17549 of 2024. The recovery has been made from an open place which is accessible to anyone. The petitioner has no concern with the alleged recovery. 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 recovery was made from an open place which is accessible to anyone.

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, Saran at Chapra, in connection with Parsa P.S. Case No. 274 of 2023 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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