

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40224 of 2024

Arising Out of PS. Case No.-41 Year-2023 Thana- PARIHAR District- Sitamarhi

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Dhruv Kumar @ Kale S/o- Rambabu Sah Village- Barahi Ps- Prihar Dist-
Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pushpendra Kumar Singh, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar, APP

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

ORAL ORDER

2 30-08-2024 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 Parihar P.S. Case No. 41 of 2023 dated
12.02.2023 registered for the offence/s punishable u/s 30(a) of
the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 177 litres of illicit
nepali saufi liquor was recovered from the Maruti Suzuki Car.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. The petitioner is not the owner of the said seized
vehicle. Nothing has been recovered from the conscious
possession of the petitioner. The petitioner has no concern with



the alleged recovery. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. 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, 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 Parihar P.S. Case No. 41 of 2023, 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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