

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39905 of 2024

Arising Out of PS. Case No.-8 Year-2024 Thana- KARPURIGRAM District- Samastipur

Dheeraj Kumar Son of Jeewachh Ray @ Jeevachh Ray Resident of Village -
Chandauli, P.S.- Waini, Distt- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Singh
For the Opposite Party/s : Mr.Gulnar Begum

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

ORAL ORDER

2 23-08-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Karpurigram P.S. Case No. 08 of 2024 dated 22.01.2024 for the offences punishable u/ss 30(a), 32, 36 and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 8352 litres of illicit foreign liquor was recovered from the truck and the pick-up van.

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



disclosed by local Chowkidar. 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. It is further submitted that the petitioner has no concern with the alleged recovery. Nothing 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. Similarly situated co-accused has already been granted anticipatory bail by this court vide order dated 05.04.2024 passed in Cr. Misc No. 22925 of 2024.

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 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, Samastipur in connection with Karpurigram P.S. Case No. 08 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 prosecution will be at liberty to move for cancellation of his bail bond.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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