

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39004 of 2023

Arising Out of PS. Case No.-274 Year-2021 Thana- SUPAUL District- Supaul

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Raja Kumar @ Raja Kumar Choudhary @ Raja Chaudhary Son Of
Shrikrishna Chaudhary Resident Of Village- Mahavir Chowk Steshan Road
Ward No. 25, Ps- Supaul, Distt- Supaul , State -Bihar

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Kuldeep Kumar

For the Opposite Party/s : Mr.Mithlesh Kumar Khare

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 23-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Supaul P.S. Case No. 274 of 2021 dated 04.04.2021 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 72 litres of illicit liquor was recovered from a pick-up vehicle and 1452 litres of illicit liquor was recovered from a container vehicle.

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 has



transpired in this case during the course of investigation. 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. The co-accused persons have already been granted anticipatory bail by the Coordinate Bench of this court vide order dated 30.08.2022 passed in Cr. Misc. No. 44583 of 2022. 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.

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, Supaul in connection with Supaul P.S. Case No. 274 of 2021, 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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