

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40494 of 2024

Arising Out of PS. Case No.-148 Year-2023 Thana- BACHHWARA District- Begusarai

Rajesh Kumar Yadav @ Rajesh Kumar SON OF GAURI YADAV VILLAGE-
SIRMANDIH, PS- CHANDRA MAN DIH, DIST- JAMUI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Ravish Mishra, Adv.
For the Opposite Party/s :	Mr. Gauri Shankar Gupta, APP
	Ms. Sharda Kumari, APP

**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 connection with Bachhwara P.S. Case No. 148 of 2023 dated 11.05.2023 for the offences punishable u/s 30(a), 32 and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 2698.92 litres of illicit foreign liquor was recovered from 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 is not named in the FIR. The petitioner is the owner of the said vehicle. Learned counsel for the petitioner has further submitted that the petitioner has no



concern with the alleged recovery. Nothing has been recovered from the conscious possession of 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 person has already been granted anticipatory bail by the Co-ordinate Bench vide order dated 02.11.2023 passed in Cr. Misc. No. 66836 of 2023. The petitioner has no criminal antecedents as stated in para 3 of the bail petition.

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 eight 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, Begusarai in connection with Bachhwara P.S. Case No. 148 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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