

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41064 of 2024

Arising Out of PS. Case No.-18 Year-2024 Thana- GARHI District- Jamui

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Babloo Kumar @ Lalu Kumar Son of Bhuna Sao Resident of Village -
Ketaribank, Post Office - Badi Bishanpur, Police Station - Khaira, District -
Jamui.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Manoranjan Kumar
For the Opposite Party/s : Mr.Arun Kumar

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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
A.P.P for the State.

The petitioner is apprehending his/her arrest in a case
in connection with Garhi P.S. Case No. 18 of 2024 dated
21.02.2024 registered for the offences punishable u/ss 272 and
273 of the Indian Penal Code and u/s 30(a) of the Bihar
Prohibition and Excise Act.

3. As per the prosecution case, total 150 litres of
illicit country made liquor was recovered from the three
different motorcycles.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. The name of the petitioner was disclosed by local



Chowkidar. The petitioner is neither the owner nor the driver of the said motorcycle. The petitioner has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The co-accused has been granted bail by this Court vide order dated 13.05.2024 in Cr. Misc. No. 36125 of 2024. 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 as well as the material available on 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, Jamui in connection with Garhi P.S. Case No. 18 of 2024, 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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