

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45098 of 2024

Arising Out of PS. Case No.-23 Year-2020 Thana- RAJAOLI District- Nawada

Munna Yadav @ Munni Yadav son of Late Prasadi Yadav Resident Of
Village- Nagarwati Ps- Rajauli District- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Adv.

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

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

ORAL ORDER

2 06-09-2024 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 Rajauli P.S. Case No. 23 of 2020 dated
24.01.2020 for the offence punishable u/s 30(a), 41 of the Bihar
Prohibition and Excise Act, 2016.

3. As per the prosecution case, total 20 litres of illicit
country made liquor was recovered near the bank of river.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. No incriminating material has been recovered from the
conscious possession of the petitioner. The recovery was made
from an open place that is accessible to anyone. Local



Chowkidar disclosed the name of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has four criminal antecedents of as stated in para 3 of the bail petition. The similarly situated co-accused has been granted anticipatory bail by this Court vide order dated 05.03.2024 passed in Cr. Misc. No. 13608 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, Nawada in connection with Rajauli P.S. Case No. 23 of 2020, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with the 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 bail bonds of the petitioner are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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