

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46952 of 2024

Arising Out of PS. Case No.-15 Year-2024 Thana- Gurupa District- Gaya

Rajesh Kumar Son of Sarju Yadav Resident of Village - Bagayi, P.S.- Gurpa,
District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prithivi Raj Singh, Adv.

For the Opposite Party/s : Mr.Md. Anzarul Haque Sahara, APP

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

ORAL ORDER

2 13-09-2024 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 Gurpa P.S. Case No. 15 of 2024 dated
13.04.2024 registered for the offences punishable u/s 30(a) of
the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 200 litres of illicit
country made liquor was recovered from the motorcycle of the
co-accused, Ajay Yadav and 850 litres of illicit country made
liquor was recovered from the other six 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 has sprung up in the



confessional statement of the co-accused, Ajay Yadav who has already been granted regular bail by this court vide order dated 08.05.2024 passed in Cr. Misc. No. 35408 of 2024. The petitioner is not the owner of the said vehicles and he has no concern with the alleged recovery. The petitioner is the driver of one of the seized vehicles. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. The co-accused person has already been granted anticipatory bail by this court vide order dated 06.09.2024 passed in Cr. Misc. No. 43200 of 2024. 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, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on 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, Gaya in connection with Gurpa P.S. Case No. 15 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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