

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48561 of 2024

Arising Out of PS. Case No.-325 Year-2021 Thana- BIKRAM District- Patna

SHRAVAN KUMAR JHA @ BAMBAM JHA @ CHAUDHARI SHRAVAN
KUMAR RAY @ BAMBAM SON OF RAM MANOJ RAI @
CHAUDHARY RAMANUJ RAY @ RAM MANOJ RESIDENT OF
VILLAGE - BATHO BHASOUR, P.S. - BAHERA, DISTRICT -
DARBHANGA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nawal Kishor Prasad, Adv.
For the Opposite Party/s : Mr. Sucheta Yadav, 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/her arrest in a
case in connection with Bikram P.S. Case No. 325 of 2021 dated
04.12.2021 for the offence/s punishable u/s 30(a), 32(ii)(iii), 36
and 41(i)(ii) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 2212 litres of
illicit foreign liquor was recovered from the truck.

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 petitioner is neither



the owner nor the driver of the seized. The truck driver, Praveen Kumar disclosed the name of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The co-accused has been granted regular bail by this Court vide order dated 24.05.2023 passed in Cr. Misc. No. 32810 of 2023. 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, Danapur in connection with Bikram P.S. Case No. 325 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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