

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.49299 of 2024**

Arising Out of PS. Case No.-418 Year-2023 Thana- VAISHALI District- Vaishali

Niraj Singh @ Niraj Kumar Singh, aged about 39 years, Male, Son of  
Lalbabu Singh @ Lal Bahadur Singh, Resident of Vill- Rasulpur, P.S.-  
Lalganj, District- Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

**Appearance :**

For the Petitioner : Mr. Shyameshwar Kumar Singh, Advocate  
For the Opposite Party : Mr. Anand Kishore Choudhary, A.P.P.

**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 connection with Vaishali P.S. Case No. 418 of 2023 dated 26.09.2023 registered for the offences punishable under Sections 420, 467, 468, 471, 120B of the I.P.C. and Sections 30(a), 36(1), 41(1) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. As per the prosecution case, total 3949.98 litres of illicit foreign liquor was recovered from the Truck. The police apprehended two co-accused persons, namely, Rakesh Kumar and Aarif Kalal from the Truck in question and who have disclosed the name of the petitioner, Amresh Kumar @ Gope,



Rajnish Kumar, Manjeet Kumar @ Bajrangi, Deepak Chaudhary, Arvind Rai and Guddu Paswan.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. The petitioner was not present at the place of occurrence. No incriminating article has been recovered from the conscious possession of the petitioner. The petitioner is neither the owner nor the driver of the said vehicle. The said vehicle was not being driven by the petitioner at the time of the alleged occurrence. The petitioner has no concern with the alleged recovery. The name of the petitioner has transpired on the basis of the confessional statement of the co-accused Rakesh Kumar and Aarif Kalal. It is further submitted that except the confessional statement of the co-accused Rakesh Kumar and Aarif Kalal, there is no other substantive evidence to suggest the implication of the petitioner in the present case. Learned counsel for the petitioner has submitted that no case under the Excise Act is made out against the petitioner. Learned counsel for the petitioner 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 F.I.R., no offence under the said provision is made out. There is no compliance of Section 100 of the Cr.P.C. It is further submitted that other co-accused persons Guddu Paswan, Rajnish Kumar and Manjeet Kumar @ Bajrangi @ Bajrangiya have already been granted anticipatory bail by a Bench of this Court vide Cr. Misc. No. 2798 of 2024 under order dated 05.02.2024, Cr. Misc. No. 5621 of 2024 under order dated 16.02.2024 and Cr. Misc. No. 24552 of 2024 under order dated 27.03.2024 and similarly other co-accused persons Amresh Kumar @ Amresh Rai and Arvind @ Arvind Kumar @ Arvind Rai have also been granted anticipatory bail by another Co-ordinate Bench of this Court vide Cr. Misc. No. 12152 of 2024 under order dated 04.03.2024 and Cr. Misc. No. 12522 of 2024 under order dated 05.03.2024, annexed as Annexure-P/2 series to the present bail application. The petitioner has three criminal antecedents in which he is on bail as stated in paragraph no. 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 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/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Court No. 2-cum-Additional District and Sessions Judge, Vaishali at Hajipur, in connection with Vaishali P.S. Case No. 418 of 2023, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

**(Chandra Prakash Singh, J)**

U.K./-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

