

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55932 of 2024

Arising Out of PS. Case No.-126 Year-2024 Thana- MOHIUDDIN NAGAR District-
Samastipur

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Krishna Kumar @ Krishna Kumar Ray SON OF RAM KUMAR @ RAM
KUMAR ROY VILLAGE- MADUDABAD, PS- MOHIUDDIN NAGAR,
DIST- SAMASTIPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar Roy, Adv
For the Opposite Party/s : Mr. Umanath Mishra, APP

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

ORAL ORDER

2 27-09-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in
connection with Mohiuddin Nagar P.S Case No. 126 of 2024
dated 13.06.2024 for the offences punishable u/s 30(a), 41(1)
and 41(2) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 204 litres of illicit
foreign liquor *was recovered from the Motorcycle and Scorpio
Vehicle.*

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. The petitioner has one criminal antecedent as stated in



para 3 of the bail petition. The petitioner is not the owner of the said vehicle but the same was not being driven by him at the time of the alleged recovery. It is further submitted that the petitioner was sitting on the said seized Scorpio Vehicle. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. Similarly situated co-accused has already been granted regular bail by this court *vide* order dated 19.09.2024 passed in Cr. Misc. No. 62642 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 as well as the nature of allegation against the petitioner, 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, Samastipur in connection with Mohiuddin Nagar P.S Case No. 126 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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