

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56039 of 2024

Arising Out of PS. Case No.-53 Year-2024 Thana- JAYNAGAR District- Madhubani

Rajesh Kumar S/O Shiv Kumar Yadav @ Shiv Jee Yadav R/O Village-
Vishanupur, P.S- Ladania, Distt.- Madhubani.

... .. Petitioner/S

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Bharti, Adv
For the Opposite Party/s : Mr. Arun Kumar, APP

**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 Jaynagar P.S Case No. 53 of 2024 dated 13.02.2024 for the offences punishable u/s 272, 273, 414 read with Section 34 of the I.P.C and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 361.485 litres of illicit Nepali country made liquor *was recovered from the Car*.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is not the owner of the



said vehicle and the same was not being driven by him at the time of the alleged recovery. The name of the petitioner was disclosed by the local chowkidar. 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 09.07.2024 passed in Cr. Misc. No. 47917 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, Madhubani in connection with Jaynagar P.S Case No. 53 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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