

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55952 of 2024

Arising Out of PS. Case No.-137 Year-2024 Thana- KATEYA District- Gopalganj

Prakash Gupta @ Ramprakash Gupta S/o Chanchal Gupta R/o vill -Motipur,
Mahuawa, P.S. - Kateya, Distt. - Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vyas Kumar Mishra, Adv
For the Opposite Party/s : Mr. Ajay Kumar No. 2, 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 Kateya P.S Case No. 137 of 2024 dated
14.04.2024 for the offences punishable u/s 30(a) of the Bihar
Prohibition and Excise Act.

3. As per the prosecution case, total 1045.44 litres of
illicit Nepali country made liquor *was recovered from the
suitcase which was kept in the back side of the Pick-up van.*

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. The name of the petitioner was disclosed by the apprehended co-accused person. 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 26.06.2024 passed in Cr. Misc. No. 43812 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, Gopalganj in connection with Kateya P.S Case No. 137 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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