

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 55687 of 2024

Arising Out of PS. Case No.-147 Year-2024 Thana- LALIT NARAYAN UNIVERSITY
District- Darbhanga

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Krishna Paswan son of Upendra Paswan RESIDENT OF VILLAGE
-MADHOUR BANALI POLICE STATION -SIMRI DISTRICT-
DARBHANGA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nilendu Kumar Choudhary, Adv
For the Opposite Party/s : Mr. Bharat Lal, 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 L.N.M.U. (University) P.S Case No. 147 of
2024 dated 01.06.2024 for the offences punishable u/s 30(a) of
the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 135 litres of illicit
Nepali country made liquor kept in the *gunny bag which was
recovered from the Scooty.*

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 the owner of the said vehicle but the same was not being driven by him at the time of the alleged recovery. 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 01.07.2024 passed in Cr. Misc. No. 44790 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, Darbhanga in connection with L.N.M.U. (University) P.S Case No. 147 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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