

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57073 of 2024

Arising Out of PS. Case No.-61 Year-2024 Thana- BUNIYAD GANJ District- Gaya

Brajesh Yadav @ Chitranjan Kumar S/o- Late Shyamlal Yadav Village-
Alipur PS-Buniyadganj Dist- Gaya

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar, Adv.

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala, 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 Buniyadganj P.S. Case No. 61 of 2024 dated 21.03.2024 registered for the offences punishable u/ss 30(a) and 30(d)/ 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1 litre of country made liquor and 4700 litres of jawa mahua were recovered near the house of the co-accused, Sanjay Manjhi. Two persons fled away from there who was identified as the petitioner and the co-accused, Brajesh Yadav.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The



petitioner has no criminal antecedent as stated in para 3 of the bail petition. It is further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. The co-accused person has already been granted regular bail by this court vide order dated 09.05.2024 passed in Cr. Misc. No. 35813 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, Gaya in connection with Buniyadganj P.S. Case No. 61 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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