

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59682 of 2024

Arising Out of PS. Case No.-62 Year-2024 Thana- KARTAHA District- Vaishali

Awadhesh Rai Son of Asharfi Rai Resident of Village -Amritpur, P.S.-
Vaishali, Distt.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Adv.
For the Opposite Party/s : Mr. Rina Sinha, APP

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

ORAL ORDER

2 04-10-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in
connection with Kartahan P.S. Case No. 62 of 2024 dated
16.05.2024 for the offence/s punishable u/ss 414 and 420 of the
Indian Penal Code and Section 30(a) of the Bihar Prohibition
and Excise Act.

3. As per the prosecution scase, total 1244.19 litres of
illicit foreign liquor was recovered from the three different
vehicles.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. No incriminating material has been recovered from the



conscious possession of the petitioner. The apprehended co-accused person disclosed the name of the petitioner. The petitioner is not the owner any of the seized vehicles. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. The co-accused has been granted bail by this Court vide order dated 09.07.2024 passed in Cr. Misc. No. 48181 of 2024. Learned counsel has submitted that no case is made out against the petitioner. 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 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 material available on record, 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, Vishali at Hajipur in connection with Kartahan P.S. Case No. 62 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)

shivam/-

U		T	
---	--	---	--

