

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62214 of 2024

Arising Out of PS. Case No.-234 Year-2024 Thana- MIRGANJ District- Gopalganj

Vikash Yadav @ Vikash Kumar Yadav Son of Brij Kishore Yadav Resident of
Village - Thepaha Uttar Tola, P.S. - Jiradei, District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhananjay Shahi, Adv
For the Opposite Party/s : Mr. Bishweshwar Ram, 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 connection with Mirganj P.S. Case No. 234 of 2024 dated 12.06.2024 of the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act 2018 & u/s 414 of the I.P.C.

3. As per the prosecution case, total 322 litres of illicit country made liquor was recovered from the *Scorpio*.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has two criminal antecedents as stated in para 3 of the bail petition. The petitioner is not the owner of the said seized vehicle and the same was not being driven by



him at the time of the alleged recovery. The name of the petitioner has transpired merely on the basis of the suspicion. Similarly situated co-accused has already been granted regular bail by this Court vide order dated 14.08.2024 passed in Cr. Misc. No. 59175 of 2024 No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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 Mirganj P.S. Case No. 234 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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