

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63368 of 2024

Arising Out of PS. Case No.-132 Year-2024 Thana- BUXAR INDUSTRIAL District- Buxar

Dilip Kumar Pathak Son of Dhruv Pathak Village - Jagat Bihar Colony,
Asiyana Nagar, P.S. - Rajeev Nagar, Dist. - Patna

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vyas Kumar Mishra

For the Opposite Party/s : Mr.Md. Shakir Ahmad

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

ORAL ORDER

3 13-09-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Buxar (Industrial) P.S. Case No. 132/2024, dated 21.06.2024 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 949.4 litres of illicit liquor was recovered from the different vehicles.

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 not named in the F.I.R. The name of the petitioner has sprung up in the



confessional statement of the co-accused. The other co-accused person has already been granted bail by this court *vide* order dated 29.07.2024 passed in Cr. Misc. No. 53889/2024. 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 eight 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, Buxar in connection with Buxar (Industrial) P.S. Case No. 132/2024, 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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