

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67143 of 2024

Arising Out of PS. Case No.-16 Year-2024 Thana- BAIKUNTHPUR District- Gopalganj

Pankaj Rai @ Pankaj Kumar Son of Harinath Rai Village-Bakhari, P.S-
Baikunthpur, Dist.-Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar bihar
2. The state of Bihar Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Sanjay Kumar Sharma, APP

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

ORAL ORDER

2 11-12-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Baikunthpur P.S. Case No. 16 of 2024 dated 16.01.2024 registered for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 855 litres of illicit foreign liquor was recovered from the Pickup vehicle.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has one criminal antecedent as stated at para 3 of the bail petition. The name of the petitioner was disclosed by local



Chowkidar. The petitioner is neither the owner nor the driver of the said vehicle and he has no concern with the alleged recovery. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted regular bail by this court vide order dated 25.06.2024 passed in Cr. Misc. No. 43265 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, Gopalganj in connection with Baikunthpur P.S. Case No. 16 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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