

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73586 of 2024**

Arising Out of PS. Case No.-223 Year-2024 Thana- NARDIGANJ District- Nawada

Kundan Kumar S/O Shivdani Mahto @ Shivdani Prasad Resident of Village-
Gotrayan, P.S.- Nardiganj, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Verma, Adv.
For the Opposite Party/s : Mr. Kanhaiya Kishore, APP

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

ORAL ORDER

2 23-10-2024 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 Nardiganj P.S. Case No. 223 of 2024 dated
24.07.2024 registered for the offences punishable u/ss 30(a)(d)
of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 50 litres of illicit
country made liquor was recovered from the field.

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 name of the
petitioner was disclosed by the local Chowkidar and the



villagers. The recovery was made from an open place that was accessible to anyone. The petitioner has three criminal antecedents in which he is on bail as stated in para 3 of the bail petition. 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, Nawada in connection with Nardiganj P.S. Case No. 223 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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