

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71757 of 2023

Arising Out of PS. Case No.-59 Year-2021 Thana- BALIYA District- Begusarai

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Umesh Singh S/O- Late Ram Sagar Singh Village- Vikrampur Ps-
Cheriyabariyarpur Dist- Begusarai

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shubhesh Pandey

For the Opposite Party/s : Mr.Ahmad Ali

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

ORAL ORDER

3 16-01-2024 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, if any, within

a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

3. The Petitioner is apprehending his arrest in
connection with Ballia P.S. Case No. 59 of 2021 dated
03.03.2021 for the offences punishable under Sections 272, 273
and 120B read with 34 of the IPC and Section 30(a) of the Bihar
Prohibition and Excise Act.

4. As per the prosecution case, total 2286 litres of
illicit liquor has been recovered from a container truck.

5. Learned counsel for the petitioner has submitted



that the petitioner has falsely been implicated in this case. The petitioner is accused in two other criminal case as stated at para 3 of the supplementary affidavit. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The petitioner is not named in the FIR. The name of the petitioner has sprung up in the confessional statement of the co-accused Raushan Kumar. 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.

6. 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.

7. 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, Begusarai in connection with Ballia P.S. Case No. 59 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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