

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79946 of 2023

Arising Out of PS. Case No.-242 Year-2023 Thana- JANDAHA District- Vaishali

Deepak Kumar S/O Budhan Singh Resident Anjeet Of Village Arniya, Ps.
Jandaha, Dist. Vaishali

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shivjee Singh

For the Opposite Party/s : Mr.Gulnar Begum

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

ORAL ORDER

2 08-01-2024 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 Jandaha P.S. Case No. 242. of 2023 dated
01.08.2023 for the offences punishable u/s 30(a) of the Bihar
Prohibition and Excise Act.

4. As per the prosecution case, total 750 ml of Indian-
made foreign liquor was recovered from the possession of the
co-accused Pawan Kumar and 27 litres of illicit liquor has been
recovered from three bags. The co-accused Brijasan Kumar



disclosed the name of the fleeing persons as Deepak Kumar and Kanhaiya Kumar.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is accused in one more criminal case as stated at para 3 of the bail petition. 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.

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, Vaishali at Hajipur in connection with Jandaha P.S. Case No. 242. of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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