

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79206 of 2023

Arising Out of PS. Case No.-311 Year-2023 Thana- GAIGHAT District- Muzaffarpur

Saroj Kumar @ Saroj Pandey S/O Harish Chand Pandey @ Harish Chandra
Pandey Village- Bahadurpur, Ps. Gaighat, Dist. Muzaffarpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Jha, Adv.

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

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

ORAL ORDER

2 05-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Gaighat P.S. Case No. 311 of 2023 corresponding to G.R. No. 1151/ 2023 dated 08.08.2023 for the offences punishable u/ss 272, 273, 420, 467, 468, 471 read with Section 34 of the Indian Penal Code and u/ss 30(a), 32, 36, 41(i) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 3782.880 litres of different brands of foreign liquor was recovered from the Cement Godown.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The



petitioner has no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner has surfaced in this case on the basis of confessional statement of the co-accused, Bijay Kumar and there is no material against the petitioner. The petitioner is not the owner of the said *godown* and he has no concern with the alleged recovery. Nothing 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 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, Muzaffarpur in connection with Gaighat P.S. Case No. 311 of 2023 corresponding to G.R. No. 1151/ 2023, 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)

Gautam/-

U			
---	--	--	--

