

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79218 of 2023

Arising Out of PS. Case No.-124 Year-2022 Thana- KUNDWACHAINPUR District- East
Champaran

NAND KISHORE PRASAD YADAV, Son of Beerchan Rai Resident of
village - Ward No.- 6 Chainpur, P.S.- Chhauradano, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Sanjay Kumar 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 Kundwa Chainpur P.S. Case No. 124 of 2022 dated 11.06.2022 for the offences punishable u/s 414 of the Indian Penal Code and u/ss 30(a) and 41(i) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 24 litres of illicit Nepali liquor was recovered from a motorcycle.

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 petitioner is not named in the F.I.R. It is



further submitted that the petitioner is not the owner of the said vehicle and the said vehicle was not being driven by the petitioner at the time of 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, Motihari in connection with Kundwa Chainpur P.S. Case No. 124 of 2022 , 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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