

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79182 of 2023

Arising Out of PS. Case No.-339 Year-2023 Thana- NAWANAGAR District- Buxar

1. Kanhaiya Pandit @ Kanheya Pandit Son Of Suraj Kohar @ Saurya Kumhar
Resident Of Village And P.S. - Nawanagar, District - Buxar
2. Jag Narayan Singh @ Jagnarayan Singh Son Of Kanta Singh @ Kamta
Singh Resident Of Village And P.S. - Nawanagar, District - Buxar

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar Pradhan, Adv.

For the Opposite Party/s : Mr.Khurshid Anwar, APP

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

ORAL ORDER

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

2. Learned counsel for the petitioners seeks
permission to withdraw the present anticipatory bail application
with respect to the petitioner no. 1 i.e. Kanhaiya Pandit @
Kanheya Pandit, who has already been arrested.

Permission is accorded.

Accordingly, the present anticipatory bail application
is dismissed as withdrawn with respect to petitioner no. 1.

3. The petitioner is apprehending his arrest in
connection with Nawanagar P.S. Case No. 339 of 2023 dated
30.08.2023 for the offences punishable u/s 30(a) of the Bihar



Prohibition and Excise Act.

4. As per the prosecution case, total 25 litres of country made liquor was recovered from a motorcycle. It is further alleged that the petitioner is engaged in illegal business of liquor.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has two criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner has surfaced on the basis of confessional statement of the apprehended person. The petitioner has no concern with the alleged recovery rather the recovery has been made from the co-accused. 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.



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 no. 2, 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, Buxar in connection with Nawanagar P.S. Case No. 339 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

Gautam/-

U		T	
---	--	---	--

