

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78518 of 2023

Arising Out of PS. Case No.-95 Year-2023 Thana- JAYNAGAR District- Madhubani

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ARUN YADAV @ ARUN KUMAR son of Munni Yadav Village- Khuadh
Kuar Ps- Jaynagar Dist- Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Gagan Deo Yadav, Adv. Mr. Vinod Kumar, Adv. Mr. Ravi Prakash, Adv. Mr. Udeshya Kumar Yadav, Adv.
For the Opposite Party/s :		Mr.Kalyan Shankar, APP

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

ORAL ORDER

2 03-01-2024 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 a case in

connection with Jaynagar P.S. Case No. 95 of 2023 dated

06.03.2023 for the offence/s punishable u/ss 272, 273 and 414

read with section 34 of the IPC and sections 30(a) and 41 of the

Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 1260 litres of

illicit liquor was recovered from a motorcycle and Mango



orchard.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The petitioner is neither the owner nor the driver of the said motorcycle. The recovery was made from an open place that is accessible to anyone. The petitioner has no concern with the alleged recovery. Local Chowkidar disclosed the name of the petitioner. Similarly situated co-accused has already been granted anticipatory bail by the co-ordinate bench of this court vide order dated 20.07.2023 passed in Cr. Misc. No. 45310 of 2023. The petitioner has two other criminal antecedents as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. 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 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 material available on record, 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, Madhubani in connection with Jaynagar P.S. Case No. 95 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)

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