

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.79185 of 2023**

Arising Out of PS. Case No.-114 Year-2023 Thana- BALIGAON District- Vaishali

RAHUL KUMAR Son of Ashok Rai R/O Village - Imadpur, P.S.- Baligaon,  
District - Vaishali

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Ravish Mishra, Adv.

For the Opposite Party/s : Mr.Braj Kishore Pd.(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 Baligaon P.S. Case No. 114 of 2023 dated 30.08.2023 for the offences punishable u/ss 272, 273 read with Section 34 of the Indian Penal Code and u/ss 30(a), 32(ii), 41(i) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 164.64 litres of India made foreign liquor was recovered from the janera farm of the co-accused persons. 327.6 litres of India made foreign liquor was also recovered from the bamboo plantation. It is further alleged that the petitioner is involved in the illegal business of supply of liquor.



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 in para 3 of the bail petition. The name of the petitioner was disclosed in this case by local *Chowkidar*. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted anticipatory bail by this court vide order dated 11.12.2023 passed in Cr. Misc. No. 75103 of 2023. 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, Vaishali at Hajipur in connection with Baligaon P.S. Case No. 114 of 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/-

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