

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83296 of 2023

Arising Out of PS. Case No.-361 Year-2023 Thana- TAJPUR District- Samastipur

MD. AFROZ S/O LATE FAZLUR REHMAN R/O MASJID, CHAKLA
WAINI, P.S- TAJPUR (WAINI OP), DISTT.- SAMASTIPUR, BIHAR-
848131.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Piyush Kumar Pandey

For the Opposite Party/s : Mr.Shyameshwar Dayal

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

ORAL ORDER

2 19-01-2024 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
connection with Tajpur 361/2023 corresponding to Excise GR
Case No. 272 of 2023 dated 23.06.2023 for the offences
punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 16.65 litres of
illicit liquor has been recovered from the rented house of the co-
accused Pappu Kumar and total 77.76 litres of foreign liquor
was recovered from the Scorpio.



5. 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 at para 3 of the bail petition. The petitioner is the owner of the said house but nothing has been recovered from the possession of the petitioner, hence no case is made out. The petitioner is neither the owner nor the driver of the vehicle. 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, 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, Samastipur in connection with Tajpur 361/2023 corresponding to Excise GR Case No. 272 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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