

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81651 of 2023

Arising Out of PS. Case No.-338 Year-2023 Thana- ROH District- Nawada

DHARMENDRA KUMAR SON OF CHANDESHWAR RAY R/O
VILLAGE- MURARCHAK, JAMSAUT, P.S.- SHAHPUR, DISTRICT-
PATNA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Udai Shankar Singh, Adv.

For the Opposite Party/s : Mr.Indu Kumari Srivastava, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 12-01-2024 Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Roh P.S. Case No. 338 of 2023 dated 26.09.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 300 litres of illicit wine was recovered from a Tempo.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedents as stated in para 3 of the bail petition. The petitioner is not named in the F.I.R. The name of the petitioner has surfaced in this case during the course of



investigation as a owner of the said vehicle. The petitioner is the owner of the said vehicle which was stolen by unknown miscreants prior lodging the present case. Learned counsel has further submitted that the petitioner has no concern with the 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, Nawada in connection with Roh P.S. Case No. 338 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/-

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

