

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81643 of 2023

Arising Out of PS. Case No.-491 Year-2020 Thana- RUNISAIDPUR District- Sitamarhi

NAWAL KUMAR S/O GAURI SHANKAR SINGH R/O VILLAGE-
BACHHARPUR, P.S.- DUMRA, DIST.- SITAMARHI

... .. Petitioner/s

Versus

The State of Bihar PATNA

... .. Opposite Party/s

For the Petitioner/s : Mr.Santosh Kumar, Adv.
For the Opposite Party/s : Mr.Nagendra Prasad, 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 Runnisaaidpur P.S. Case No. 491 of 2020 dated 08.10.2020 for the offences punishable u/s 414 of the Indian Penal Code and u/ss 30(a), 38(i) (ii) and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 2962.710 of illicit foreign liquor was recovered from four different vehicles and Rs. 1,59, 800/- is said to have recovered from the house of the co-accused Manoj Prasad and Amit Prasad.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has three 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 sprung up in the confessional statement of the co-accused person, Amarjit Kumar @ Ujjawal Singh. The petitioner is not the owner of the said vehicle and the same was not being driven by the petitioner at the time of alleged recovery. 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. The co-accused person has already been granted anticipatory bail by the Coordinate Bench of this court vide order dated 25.03.2022 passed in Cr. Misc. No. 7037 of 2022. 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, Sitamarhi in connection with Runnisaidpur P.S. Case No. 491 of 2020, 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)

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