

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82579 of 2023

Arising Out of PS. Case No.-83 Year-2022 Thana- KATEYA District- Gopalganj

Dheeraj Gupta @ Dhiraj Gupta Son Of Yogendra Gupta @ Yogendra Prasad
Gupta R/O Village- Parsauni, P.S.- Kateya, Dist.- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vikash Kumar Shukla

For the Opposite Party/s : Mr.Anita Kumari

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

ORAL ORDER

2 16-01-2024 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 Kateya P.S. Case No. 83 of 2022 dated 25.02.2022 for the offences punishable u/s 414 read with 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 89 litres of illicit liquor has been recovered from the car, Wagon R. The apprehended person disclosed the name of the petitioner.



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 name of the petitioner has sprung up in the confessional statement of Laxman Yadav. The petitioner is neither owner nor driver of the said vehicle. No incriminating article 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.

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, Gopalganj in connection with Kateya P.S. Case No. 83 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

atul/-

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

