

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.81758 of 2023**

Arising Out of PS. Case No.-371 Year-2023 Thana- KARJA District- Muzaffarpur

1. Dilip Kumar S/O Badri Sah R/O Village- Rotiniya, P.S- Karja, Distt.- Muzaffarpur.
2. Sonu Kumar S/O Hiralal Sah R/O Village- Chak Ghulam Mahammadchak, P.S- Karja, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Ratneshwar Prasad, Adv.

For the Opposite Party/s : Mr.Pramod Kumar Pandey, APP

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

ORAL ORDER

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

2. Learned counsel for the appellants seeks permission to withdraw the present anticipatory bail application with respect to the petitioner no. 2 i.e. Sonu Kumar, who has already been arrested.

Permission is accorded.

Accordingly, the present anticipatory bail application is dismissed as withdrawn with respect to petitioner no. 2.

3. The petitioner is apprehending his arrest in a case in connection with Karja P.S. Case No. 371 of 2023 dated 30.10.2023 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 209.775 litres of



illicit foreign liquor was recovered from two vehicles. It is further alleged that this illicit liquor was brought by the petitioner and the accused person.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has two criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner was disclosed by the apprehended persons. The petitioner is neither the owner nor the driver of the said vehicle and the same was not being driven by the petitioner at the time of the alleged recovery. Nothing has been recovered from the possession of the petitioner and the petitioner has no concern with the alleged recovery hence, no case is made out against the petitioner. 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 no. 1, 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, Muzaffarpur in connection with Karja P.S. Case No. 371 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

**(Chandra Prakash Singh, J)**

Gautam/-

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