

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84297 of 2023

Arising Out of PS. Case No.-199 Year-2023 Thana- BEERPUR District- Begusarai

Akhilesh Kumar @ Akhilesh Mahto Son of Vinod Singh R/o ward no. 06,
Naula, Makhwa, P.S. - Bhagwanpur, Distt. - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pritish Kumar Lal, Advocate.

For the Opposite Party/s : Mr. Navin Kumar Pandey, A.P.P.

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

ORAL ORDER

2 22-01-2024 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 Birpur P.S Case No. 199 of 2023 dated
02.11.2023 for the offences punishable u/s 30(a) of the
Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 18 litres of
illicit liquor was recovered behind the poultry farm of the
co-accused Rajkumar Chaurasia.



5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that as per the F.I.R., the petitioner was not found at the place of occurrence or at the place of search and seizure near the poultry farm where from the recovery of liquor was made. The petitioner has one criminal antecedent as stated at para 3 of the bail petition. 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, Begusarai in connection with Birpur P.S Case No. 199 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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