

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85423 of 2023

Arising Out of PS. Case No.-86 Year-2023 Thana- Excise P.S. District- Aurangabad

Atul Kumar S/o - Ramprit Paswan R/o Village- babhan Bigha, P.S.- Parasi,
District- Arwal.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs.Mukul Kumari, Adv.

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

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

ORAL ORDER

2 24-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Daudnagar Excise P.S. Case No. 86 of 2023, G.R. No. 1022 of 2023 dated 25.07.2023 for the offences punishable u/ss 30(a), 32(i) and 32(3) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 13 litres of illicit country made liquor was recovered out of which 5 litres was recovered from the backpack of the co-accused Dhirendra Paswan and 3 litres was recovered from the backpack of the co-accused Ravindra Paswan who were on a motorcycle bearing no. BR56A5543. 5 litres was also recovered from the dickey of



a motorcycle bearing no. BR01CK4623.

4. 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 in para 3 of the bail petition. The name of the petitioner was disclosed by the apprehended person. The petitioner is the owner of the said motorcycle bearing Reg. no. BR56A5543 from which the recovery has been made but the petitioner had sold the said vehicle to one Manjeet Kumar on 06.11.2017. It is 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 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.

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, Aurangabad in connection with Daudnagar Excise P.S. Case No. 86 of 2023, G.R. No. 1022 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	
---	--	---	--

