

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.84210 of 2023**

Arising Out of PS. Case No.-134 Year-2021 Thana- KUTUMBA District- Aurangabad

Dhiraj Kumar, age 25 yrs, male, S/o Braj Kishor Singh R/o Village - Rasalpur,  
P.S.-Kutumba, District- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Mukul Kumari, Advocate.

For the Opposite Party/s : Mr. Sanjay Kumar, 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 Kutumba P.S Case No. 134 of 2021, G.R.  
  
No. 1065 of 2021, dated 10.08.2021 for the offences  
  
punishable u/s 30(a) of the Bihar Prohibition and Excise  
  
Act.

4. As per the prosecution case, total 37.50 litres of  
  
illicit liquor was recovered from the dickey of the



motorcycle.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that the petitioner is neither the owner nor the driver of the said vehicle. Learned counsel has further submitted that the co-villagers have disclosed the name of the petitioner. The petitioner has no 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, Aurangabad in connection with Kutumba P.S Case No. 134 of 2021, G.R. No. 1065 of 2021, 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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