

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84652 of 2023

Arising Out of PS. Case No.-594 Year-2023 Thana- BRAHMPUR District- Buxar

Rajesh Yadav @ Chaya Yadav S/o Govardhan Yadav Resident Of Village
-Mahuar Ward No. 05,P.S.-Nainijor, District-Buxar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR PATNA, BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar Gupta, Adv.

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

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

ORAL ORDER

2 23-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Brahmpur (Nainijor) P.S. Case No. 594 of 2023 dated 01.10.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 66 litres of illicit country made liquor was recovered from the sack and the bag.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has six criminal antecedents as stated in para 3 of the bail petition. The name of the petitioner was disclosed by the co-accused person and *Chowkidar*. 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, Buxar in connection with Brahmpur (Nainijor) P.S. Case No. 594 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition :-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the prosecution will be at liberty to move for cancellation of his bail bond.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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