

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4939 of 2024

Arising Out of PS. Case No.-161 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Samastipur

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Birju Sah @ Birju Kumar @ Biraju Sah S/o Kameshwar Sah R/o vill-Raipur
(Gohi Bishanpur), P.S-warisnagar, Dist.- samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Advocate
For the Opposite Party/s : Mr. Pushpa Sinha, APP

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

ORAL ORDER

2 15-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Excise Case No. 161 of 2021 dated 18.05.2021 or the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act 2016.

3. As per the prosecution case, total 51.660 litres of illicit foreign liquor was recovered.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal case as stated at para 3 of the bail petition. The name of the petitioner has transpired in this case only on the basis of the suspicion. 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.

5. It is to note that the advocate of the petitioner has made necessary corrections in paragraph nos. 4 and 7 of the bail petition at the time of the proceedings.

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 petitioners, 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, Samastipur in connection with Excise Case No. 161 of 2021 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. This application stands allowed.

(Chandra Prakash Singh, J)

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