

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4933 of 2024

Arising Out of PS. Case No.-265 Year-2023 Thana- BHAGWANPUR District- Begusarai

Rakesh Kumar S/O Maheshwar Mahto @ Maheshwar Singh R/o Village-
Harichak, P.S.- Bhagwanpur, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dharendra Singh, Advocate

For the Opposite Party/s : Mr. Meena Singh, APP

**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 Bhagwanpur P.S. Case No. 265 of 2023 dated 02.10.2023 of the offences punishable u/s sections 30(a) of the Bihar Prohibition and Excise Act 2016.

3. As per the prosecution case, total 1.5 litres of illicit foreign liquor was recovered under a lemon tree, behind the petitioner's house.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal case as stated at para 3 of the bail petition. The name of the petitioner was disclosed by



the apprehended person. The recovery has been made from an open place which is accessible to anyone. 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. 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 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,
Begusarai in connection with Bhagwanpur P.S. Case No. 265 of
2023 subject to conditions as laid down under section 438(2) of
the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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