

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3406 of 2024

Arising Out of PS. Case No.-296 Year-2023 Thana- RIGA District- Sitamarhi

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Bhuneshwar Das S/O Kameshwar Das@Govardhan Das R/O Vill-
Bhabhangama, P.S.-Riga, Dist- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Virendra Kumar, Advocate

For the Opposite Party/s : Mrs. Sharda Kumari, APP

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

ORAL ORDER

2 09-02-2024 Learned counsel for the petitioner is directed 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 Riga P.S. Case No. 296 of 2023, dated

22.07.2023 for the offences punishable under Section 30(a) of

the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 8.700 litres of

Nepali Saufi liquor has been recovered from the bush, which is

outside of the house of petitioner's house.

5. 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 antecedent as stated in para 3 of the bail petition. No incriminating material has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. He further submits that petitioner is working at Ludhiyana as a daily wages labourer and he has no knowledge about this incident, the recovery was made from an open place. 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 APP 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, Sitamarhi in connection with Riga P.S. Case No. 296 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

Ranjeet/-

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