

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2030 of 2024

Arising Out of PS. Case No.-82 Year-2023 Thana- BHORE District- Gopalganj

NITISH KUMAR @ NITISH KUMAR BHAGAT S/O NANDKISHOR
BHAGAT R/O VILL- HUSEPUR, PS- BHORE, DIST- GOPALGANJ,
BIHAR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Indrajeet Bhushan

For the Opposite Party/s : Mr.Sanjay Kumar Sharma

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

ORAL ORDER

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

2. The petitioner is apprehending his arrest in connection with Bhore P.S. Case No. 82 of 2023, dated 02.03.2023 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. As per prosecution case, total 61.800 litres of country made liquor was recovered from a gunny bag kept on a motorcycle.

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 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. The name of the petitioner has transpired on the basis of confessional statement of local Chowkidar. 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 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.

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, Gopalganj, the learned Court below in connection with Bhore P.S. Case No. 82 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

Ranjeet/-

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