

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2330 of 2024

Arising Out of PS. Case No.-10 Year-2022 Thana- Excise P.S. District- Bhagalpur

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Durga Choudhary @ Durga Kumar S/O- Ram Dev Chaudhari R/O Vill-
Sohagpur, Ward No. 4, Tharbitia, Ps- Kishanpur, Dist- Supaul.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shahid Aqubal

For the Opposite Party/s : Mr.Rana Randhir Singh

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**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 Excise (Sadar) P.S. Case No. 10 of 2022, arising out of Spl. Excise Case No. 116/2022, dated 19.01.2022 for the offences punishable under Sections 30(a) and 41(1) of the Bihar Prohibition and Excise Amendment Act, 2018.

3. As per prosecution case, total 123.390 litres of Indian made foreign liquor were recovered from the car.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. Petitioner has three criminal antecedents as stated in para 3 of the bail petition in which he is on bail. He further



submits that the car was driven by co-accused Ranjeet Kumar who disclosed the name of the petitioner. Petitioner is the owner of the said car. Nothing incriminating material has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. Petitioner was not present at the place of occurrence. 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, Bhagalpur in connection with Excise (Sadar) P.S. Case No. 10 of 2022, arising out of Spl. Excise Case No. 116/2022, 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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