

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1776 of 2024

Arising Out of PS. Case No.-208 Year-2023 Thana- KOCHADHAMAN District- Kishanganj

Ankesh Kumar Yadav S/O Mahanand Yadav Village- Ghiwaha, Ps. Chhatapur,
Distt. Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pawan Kumar Singh, Advocate

For the Opposite Party/s : Mr. Asha Devi, APP

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

ORAL ORDER

3 12-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Kochadhaman P.S. Case No. 208 of 2023 dated 30.08.2023 for the offences punishable u/s 30(a), 32, 41 and 47 of the Bihar Prohibition and Excise (Amendment) Act- 2016.

3. As per the prosecution case, total 94.530 litres of illicit foreign liquor was 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. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. It is further submitted that the name of the petitioner has transpired on the basis of disclosure of



arrest person and police without inquiry real fact implicated the petitioner in the present case. The petitioner is the owner of the said vehicle and the same was not being driven by the petitioner at the time of the alleged recovery. 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 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, Kishanganj in connection with Kochadhaman P.S. Case No. 208 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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