

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3117 of 2024

Arising Out of PS. Case No.-432 Year-2023 Thana- KONCH District- Gaya

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Rakesh Kumar Sharma @ Kutumb @ Rakesh Sharma S/O Shrikant Sharma,
Son-In-Law Of Late Rmakant Sharma Village- Edari, Ps. Uphara, Dist.
Aurangabad At Present R/O Village- Konch Bazar, Ps. Konch, Dist. Gaya
(BIHAR).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Aryan Singh

For the Opposite Party/s : Mr.Asha Kumari

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 05-02-2024 Learned counsel for the petitioner is permitted 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 Konch P.S. Case No. 432 of 2023, dated

18.09.2023 for the offences punishable under Section 30(a) of

the Bihar Prohibition and Excise Amendment Act, 2018.

4. As per the prosecution case, total 89.625 litres of

foreign liquor was recovered from a Red Colour Car.

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. Mahal Chowkidar has disclosed the name of the petitioner. The petitioner is not the owner of the said car. 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, Gaya in connection with Konch P.S. Case No. 432 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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