

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2722 of 2024

Arising Out of PS. Case No.-341 Year-2023 Thana- CHERIYA BARIYARPUR District-
Begusarai

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Dhodhi Sahni @ Ram Shewak Sahni Son of Gonar Sahni Resident of Village-
Nityanand Chauk, P.S.- Cheria Bariyarpur, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Braj Bhusan Poddar, Advocate
For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, APP

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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 Cheriya Bariyarpur P.S. Case No. 341 of 2023 dated 27.11.2023 for the offences punishable u/s 188, 290 of IPC and 30(a) of the Bihar Prohibition and Excise Act 2022.

3. As per the prosecution case, total 30 litres of illicit country made liquor was recovered from the *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 at para 3 of the bail petition. The name of the petitioner was disclosed by *local Chaukidar*. The petitioner is neither the



owner nor the driver of the said vehicle and the same was not being driven by the petitioner. 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



7. This application stands allowed.

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