

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9901 of 2024

Arising Out of PS. Case No.-368 Year-2023 Thana- KASBA District- Purnia

Manoj Kapri @ Manoj Kumar Kapri Vinod Kapri @ Vinod Prasad Kapri
Resident of Village- Bucchar Tola, Ward no. 13, P.S.- Kasba, Distt- Purnia-
854331

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nishant Kumar Sinha, Adv.

For the Opposite Party/s : Mr. Ajay Kumar No. 2, APP.

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

ORAL ORDER

2 23-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in
connection with Kasba P.S. Case No. 368 of 2023 dated
26.10.2023 for the offence punishable u/s 30(a) of the Bihar
Prohibition and Excise Act, 2016.

3. As per the prosecution case, total 26 litres of illicit
foreign liquor was recovered from the bush behind the house of
Md. Sakim.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. No incriminating material has been recovered from the
conscious possession of the petitioner. The recovery was made



from an open place that is accessible to anyone. The petitioner has no concern with the alleged recovery. The name of the petitioner was disclosed by local people. The petitioner has one other criminal antecedent of similar nature as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. 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 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 material available on record, 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, Purnea in
connection with Kaswa P.S. Case No. 368 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)

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