

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6931 of 2024

Arising Out of PS. Case No.-29 Year-2022 Thana- CHEWARA District- Sheikhpura

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Ajay Kumar SON OF PRABHU YADAV Ro Village -Tapsipur, P.O -Badi
Gulni, P.S.- Pakribarawan District -Nalanda

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar

For the Opposite Party/s : Mr.Kumar Ranjit Ranjan

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

ORAL ORDER

2 17-02-2024 Learned counsel for the petitioner is directed 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 Excise Case No. 270 of 2022, arising out of
Chewara P.S. Case No. 29/2022, dated 19.08.2023, for the
offences punishable under Sections 272, 273, 34 of the Indian
Penal Code and under sections 30(a) 32/ 41(i) of the Bihar
Prohibition and Excise (Amendment) Act, 2018.

4. As per the prosecution case, total 66.750 litres of
foreign liquor has been recovered from a Hyundai vehicle



driven by co-accused Rajesh Kumar.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner has come on the basis of confessional statement of apprehended co-accused Rajesh Kumar. No incriminating material has been recovered from the conscious possession of the petitioner, hence 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 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, Sheikhpura in connection with Excise Case No. 270 of 2022, arising out of Chewara P.S. Case No. 29/2022, 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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