

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3188 of 2024

Arising Out of PS. Case No.-79 Year-2023 Thana- NTPC KHAIRA District- Aurangabad

Baijnath Kumar Singh Son of Late Sudarshan Singh Resident of Village-
Sinduriya, P.S. Japala, District- Palamu

... .. Petitioner/s

Versus

The State Of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Verma

For the Opposite Party/s : Mrs. Asha Devi

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

ORAL ORDER

2 09-02-2024 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 N.T.P.S. Khaira P.S. Case No. 79 of 2023, dated
09.09.2023 for the offences punishable under Section 30(a) of
the Bihar Prohibition and Excise (Amendment) Act, 2018.

4. As per prosecution case, total 21.960 litres of illicit
liquor was recovered from a Splendor motorcycle whereas
56.52 litres of Desi liquor and 3 litres of English wine were
recovered from a Deluxe motorcycle which belonged to the



petitioner.

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. The name of the petitioner has transpired because he is owner of the said Deluxe motorcycle. But at the time of alleged recovery, the said motorcycle was not being driven by 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, Aurangabad in connection with N.T.P.S. Khaira P.S. Case No. 79 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/-

U		T	
---	--	---	--

