

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3205 of 2024

Arising Out of PS. Case No.-409 Year-2023 Thana- PHULWARIYA District- Gopalganj

Dhiraj Ram Son of Suresh Ram Resident of Village-Karariya Thakurai, PS-
Phulwariya, District-Gopalganj

... .. Petitioner/s

Versus

The State Of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Akash Bharti

For the Opposite Party/s : Mr. Sanjay Kumar Sharma

**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 Phulwariya P.S. Case No. 409 of 2023, dated
09.11.2023 for the offences punishable under Section 30(a) of
the Bihar Prohibition and Excise Amendment Act, 2022.

4. As per prosecution case, total 108 litres of country
made liquor has been recovered from the two motorcycle.

5. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in



this case. The petitioner has two criminal antecedents of similar nature in which he is on bail as stated in para 3 of the bail petition. The petitioner has been made accused in the present case on the basis of confessional statement of the apprehended accused. 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, Gopalganj in connection with Phulwariya P.S. Case No. 409 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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