

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2744 of 2024

Arising Out of PS. Case No.-128 Year-2023 Thana- RAJGIR District- Nalanda

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Shailesh Rajvanshi @ Shalesh Rajvanshi Son Of Ramprit Rajvanshi Resident
Of Village - Thakur Sthan, Police Station - Rajgir, District - Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ritesh Kumar Sinha

For the Opposite Party/s : Mr.Asha Kumari

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

ORAL ORDER

2 05-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Rajgir P.S. Case No. 128/2023 dated 03.03.2023 for the offences punishable u/s 30(a), 30(c) and 30(d) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 8 litres of illicit country-made liquor was recovered from the red colour gallon and apparatus used for making liquor were also recovered.

4. 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 antecedent and he is on bail in both the cases as stated at para 3 of the bail petition.



No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The recovery is from an open place which is assessible to anyone. 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



amount each to the satisfaction of the learned court concerned,
Nalanda at Biharsharif in connection with Rajgir P.S. Case No.
128/2023, subject to conditions as laid down under section
438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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