

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4264 of 2024

Arising Out of PS. Case No.-319 Year-2019 Thana- BANIAPUR District- Saran

Virendra Mishra S/O - Vikram Mishra R/o - T 31 EAST MEHRAM NAGAR
PALAM AIRPORT MORADABAD PAHARI DELHI CANTT, p.s. -
MEHRAM NAGAR, SOUTH WEST DELHI, DELHI 110010

... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anjani Parashar, Adv.

For the Opposite Party/s : Mr.Sucheta Yadav, APP

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

ORAL ORDER

2 12-02-2024 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 Baniyapur P.S. Case No. 319 of 2019 dated 20.10.2019 for the offence/s punishable u/s 414 of the IPC and section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 3844.2 litres of illicit foreign liquor was recovered from the truck.

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 petitioner is neither the owner nor the driver of the said truck. The petitioner has no



concern with the alleged recovery. The name of the petitioner has transpired on mere suspicion. The petitioner has three other criminal antecedents 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, Chapra, Saran in connection with Baniyapur P.S. Case No. 319 of 2019, 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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