

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7636 of 2024

Arising Out of PS. Case No.-226 Year-2022 Thana- DANIYAWAN District- Patna

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1. Alok Kumar S/O- Dinanath Singh @ Deenath Singh R/O- Vill.- Checher Ward No 1, Ps- Bidupur, Dist. -VAISHALI
 2. Piyush Kumar S/O- Sunil Singh R/O- Vill.- Checher Ward No 1, Ps- Bidupur, Dist. -VAISHALI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jay Ram Prasad, Adv.

For the Opposite Party/s : Mr. Gauri Shankar Gupta, APP.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 20-02-2024 Heard learned counsel for the petitioners and learned APP for the State.

2. Learned counsel for the petitioners seeks permission to withdraw the present anticipatory bail application with regard to petitioner no.1 i.e. Alok Kumar, who has already been arrested.

3. Accordingly, the present anticipatory bail application is dismissed as withdrawn with respect to petitioner no.1.

4. The petitioner is apprehending his arrest in a case in connection with Daniyawar P.S. Case No. 226 of 2022 dated 04.12.2022 for the offences punishable u/s 30(a), 32(2)(3), 36,



41(1)(2) of the Bihar Prohibition and Excise Act, 2022.

5. As per the prosecution case, total 259.56 litres of illicit foreign liquor was recovered from the Pick-Up van.

6. Learned counsel for the petitioners 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 vehicle. The said vehicle was not being driven by the petitioner at the time of the alleged occurrence. The petitioner has no concern with the alleged recovery. The name of the petitioner has transpired in the confessional statement of the co-accused Vishwajeet Kumar Yadav (driver). The petitioner has no criminal antecedent 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.

7. 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.

8. Considering the aforesaid facts and circumstances of the case as well as the material available on record, let the above named petitioner no.2, Piyush Kumar, 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, Patna City in connection with Daniyawan P.S. Case No. 226 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

9. The application stands allowed.

(Chandra Prakash Singh, J)

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