

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24401 of 2025

Arising Out of PS. Case No.-307 Year-2023 Thana- KALYANPUR District- Samastipur

CHANDAN KUMAR S/o Late Lal Bahadur Rai R/o Village- Muktapur, Ward
No. 04, P.S.- Kalyanpur, District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar, Adv.

For the Opposite Party/s : Mr.Pradeep Narain Kumar, APP

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

ORAL ORDER

2 04-07-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Kalyanpur P.S. Case No. 307 of 2023 dated 17.10.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1800 litres of illicit foreign liquor from the first pick-up van, 2160 litres of illicit foreign liquor from the second pick-up and 2700 litres of illicit foreign liquor were recovered from the godown of the co-accused.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The



petitioner has one criminal antecedent as stated in para 3 of the bail petition. The petitioner is not named in the F.I.R. The name of the petitioner has sprung up in the confessional statement of the co-accused, Ganesh Kumar. The petitioner is neither the owner nor the care taker of the alleged godown or vehicles from where the alleged recovery has been made as stated in para 8 of the bail petition. The petitioner has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted anticipatory bail by this court vide order dated 29.02.2024 passed in Cr. Misc. No. 12867/2024. 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, Samastipur in connection with Kalyanpur P.S. Case No. 307 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition :-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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