

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79316 of 2024

Arising Out of PS. Case No.-86 Year-2022 Thana- DIGHWARA District- Saran

Nitesh Singh @ Nitesh Kumar Singh @ Nitesh Kr. Singh S/O Late Krishna
Singh R/O Village -Saidpur,Kakadiya,P.S- Dighwara,Dist.- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar

For the Opposite Party/s : Mr. Umanath Mishra

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

ORAL ORDER

2 07-02-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Dighwara P.S. Case No. 86 of 2022 dated 12.03.2022 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, 2.610 litres of foreign liquor was recovered from the back side of the house of the petitioner and the co-accused persons. It is further alleged that they were selling illicit liquor.

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 at para 3 of the



bail petition. Nothing has been recovered from the possession of the petitioner. Learned counsel has further submitted that the said recovery has been made from an open place that is accessible to anyone. 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 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. Similarly situated co-accused has already been granted anticipatory bail by this court vide order dated 24.06.2023 passed in Cr. Misc No. 33708 of 2023.

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 bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Saran at Chapra in connection with Dighwara P.S. Case No. 86 of 2022, 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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