

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81184 of 2024

Arising Out of PS. Case No.-185 Year-2019 Thana- KHAJEKALA District- Patna

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Mitti Kumar @ Nitish Kumar Son of Santlal Ray @ Sant Lal Rai Resident of
Hamampar, P.S.- Khajekalan, District- Patna

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Harish Kumar

For the Opposite Party/s : Mr.Bishweshwar Ram

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

ORAL ORDER

2 20-02-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Khajekalan P.S. Case No. 185 of 2019, dated 23.04.2019 for the offences punishable under Sections 30(a), 38, 41 of the Bihar Prohibition and Excise Act.

3. As per prosecution case, 144 litres of illicit country made liquor was recovered from the empty land.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. Learned counsel further submitted that the recovery is made from the open place. Nothing has been



recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. The other co-accused person has already been granted bail by this court *vide* order dated 28.03.2024 passed in Cr. Misc. No. 19820/2024. 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 APP 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, Patna City in connection with Khajekalan P.S. Case
No. 185 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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