

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80509 of 2024

Arising Out of PS. Case No.-172 Year-2022 Thana- RAJEPUR District- East Champaran

Daresh Kumar @ Mirchai Lal Rai @ Mirchai Lal Yadav S/o Late Bharat
Yadav Village- Lahsurka, P.S.- Tariyani Chhapra, District- Sheohar

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh

For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur

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

ORAL ORDER

2 19-02-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Rajepur P.S. Case No. 172 of 2022 dated 28.09.2022 for the offences punishable u/ss 272, 273, 420, 467, 468, 120B of the IPC and sections 30(a), 32, 36 and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1845 litres of illicit liquor was recovered from the four different vehicles.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The apprehended co-accused person has disclosed



the name of the petitioner. It is further submitted that 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 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.

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,
East Champaran, Motihari in connection with Rajepur P.S. Case
No. 172 of 2022, 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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