

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82642 of 2024

Arising Out of PS. Case No.-239 Year-2024 Thana- PARSABAZAR District- Patna

Vikash Kumar Son of Gorakh Sao @ Gaurav Sah Resident of Village- Parsa Bazar , P.S.- Parsa Bazar, District- Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rakesh Bihari Singh
For the Opposite Party/s : Mr.Md. Nazir Ansari

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 21-02-2025 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Parsa Bazar P.S. Case No. 239 of 2024 dated 07.05.2024 for the offences punishable u/ss 279 and 427 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 166.53 litres of illicit foreign liquor was recovered from the tempo.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is not the owner of the said vehicle. The other co-accused person has already been granted bail by this court *vide*



order dated 27.09.2024 passed in Cr. Misc. No. 57250/2024. The petitioner has three criminal antecedents and he is on bail in all the aforesaid cases as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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 her 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 in connection with Parsa Bazar P.S. Case No. 239 of 2024, 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 bonds of the petitioner is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

atul/-

U		T	
---	--	---	--

