

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83222 of 2024

Arising Out of PS. Case No.-214 Year-2023 Thana- KOILWAR District- Bhojpur

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Jitendra Kumar Yadav @ Jitendra Kumar S/O Lalbadan Yadav R/O
Dhanaipur, P.O- Saraybharti, P.S- Mau, Distt.- Baliya (Uttar Pradesh).

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Akash Kumar Mishra

For the Opposite Party/s : Mr.Ashok Kumar Singh

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**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 Koelwar (Gidha) P.S. Case No. 214 of 2023 dated 14.04.2023 registered for the offences punishable u/ss 419 and 420 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, the petitioner and the co-accused persons were apprehended with car from which 50.940 litres of illicit liquor was recovered.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has two criminal antecedents in which he is on bail as



stated at para 3 of the bail petition. The petitioner is neither the owner nor the driver of the said vehicle and he has no concern with the alleged recovery. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused persons have already been granted regular bail by this court vide order dated 20.07.2023 passed in Cr. Misc. No. 43135 of 2023. 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, Bhojpur Ara in connection with Koilwar (Gidha O.P.) P.S. Case No. 214 of 2023, 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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