

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89132 of 2024

Arising Out of PS. Case No.-98 Year-2024 Thana- KURSAILA District- Katihar

Amit Kumar @ Amit Kumar Jaiswal S/o- Dinesh Jaiswal R/o Ajhokopa, Ward
No. 5, P.S. Rupauli, District- Purnia

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar Mandal, Advocate
For the Opposite Party/s : Mr. Sharda Kumari, A.P.P.

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

ORAL ORDER

2 28-02-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in
connection with Kursela P.S Case No. 98 of 2024, dated
06.06.2024, for the offences punishable u/s 30(a) of the Bihar
Prohibition and Excise Act.

3. As per the prosecution case, total 384 litres of illicit
foreign liquor was recovered from *Baswari* (bamboo orchard).

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. The name of the petitioner has surfaced in the present
case on the basis of confessional statement of the apprehended
co-accused persons. The alleged recovery has been made from



an open place which is accessible to anyone. The petitioner has two criminal antecedents as stated in para 3 of the bail petition. The other co-accused person has already been granted bail by this court *vide* order dated 11.12.2024, passed in Cr. Misc. No. 67040 of 2024. 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 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, Katihar, in connection with Kursela P.S. Case No. 98 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 bond of the petitioner is liable to be cancelled.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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