

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 34179 of 2023**

Arising Out of PS. Case No.-390 Year-2022 Thana- BAHERI District- Darbhanga

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SUMIT KUMAR SON OF RAM NARAYAN BHAGAT RESIDENT OF
VILLAGE AND PS- BAHERI, DISTT- DARBHANGA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Sanjay Kumar Mishra, Advocate

For the Opposite Party/s : Mr Narsingh Tanti, APP

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CORAM: HONOURABLE MR JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 24-06-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor (for brevity, **APP**) appearing for
the State of Bihar.

The petitioner is apprehending his arrest in connection
with Baheri Police Station (for brevity, **PS**) Case No 390 of
2022 dated 24.11.2022 registered for the offences punishable
under Section 30 (a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, 241.92 litres of illicit
liquor was recovered from the truck loaded with stone chips.

Learned counsel for the petitioner has submitted that
the petitioner has falsely been implicated in this case. The
petitioner bears clean antecedent, as stated at paragraph 3 of the
bail petition. No incriminating article has been recovered from



the possession of the petitioner, hence no case is made out. The petitioner is not the owner of the said vehicle. The name of the petitioner was disclosed by the *Khalasi* of the said vehicle. Learned counsel has relied on the judgment of Full Bench of of this Court in the case of *Ram Vinay Yadav -Versus- 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 the Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the First Information Report, no offence under the said provision is made out.

Learned APP appearing for the State of Bihar 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.

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 his furnishing bonds of Rs 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of Exclusive Special Judge



I, (Excise Act), Darbhanga in Baheri PS Case No 390 of 2022,
subject to all conditions as laid down under Section 438 (2) of
Criminal Procedure Code.

(Chandra Prakash Singh, J)

M.E.H./-

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