

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.33725 of 2023**

Arising Out of PS. Case No.-120 Year-2023 Thana- BARSOI District- Katihar

CHUNNI LAL SAH, Son of Sidheshwar Gupta @ Singheshwar Sah,  
Resident of Village- Raghunathpur, Ward No-03, PS- Barsoi, Distt- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Sanjeev Kumar Singh, Advocate  
For the Opposite Party/s : Mr.Md. Matloob Rab, APP

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

ORAL ORDER

2      24-06-2023              Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

The petitioner is apprehending his arrest in connection with Barsoi P.S. Case No. 120 of 2023 dated 20.04.2023 registered for the offences punishable u/s 30 (a) of the Bihar Prohibition and Excise Act.

As per prosecution case, 16.375 litres of foreign liquor and 9 litres of country made liquor were recovered from a motorcycle of the petitioner.

Learned counsel for the petitioner has submitted that



the petitioner has falsely been implicated in this case. The name of the petitioner was disclosed by the local people. Learned counsel has further submitted that the said motorcycle was not driven by the petitioner at the time of alleged occurrence though the petitioner is the owner of the said motorcycle. Nothing has been recovered from the possession of the petitioner hence, no case is made out against the petitioner. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. 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.

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.

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 bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Katihar in connection with Barsoi P.S. Case No. 120 of 2023, subject to conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

This application stands allowed.

**(Chandra Prakash Singh, J)**

Gautam/-

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