

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 34219 of 2023**

Arising Out of PS. Case No.-30 Year-2023 Thana- GOGRI District- Khagaria

SARBAN YADAV Son of Mahesh Yadav Resident of Village- Usari, PS-
Gogri, district- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Ranjeet Kumar Singh, Advocate
For the Opposite Party/s : Mr Harendra Prasad, APP

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 Gogri Police Station (for brevity, **PS**) Case No 30 of 2023
dated 25.01.2023 registered for the offences punishable under
Sections 30 (a) (b) (c) of the Bihar Prohibition and Excise
Amendment Act.

As per the prosecution case, 2 litres country made
liquor and utensils were recovered from the field of the co-
accused Rajesh Yadav.

Learned counsel for the petitioner has submitted that
the petitioner has falsely been implicated in this case. It is



further submitted that the petitioner has no antecedent, as stated at paragraph 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 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. The recovery is made from the field of the co-accused.

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 Excise
Judge I, Khagaria in Gogri PS Case No 30 of 2023, subject to
all conditions as laid down under Section 438 (2) of Criminal
Procedure Code.

(Chandra Prakash Singh, J)

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