

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 34196 of 2023**

Arising Out of PS. Case No.-130 Year-2023 Thana- CHAPRA TOWN District- Saran

Manoj Prasad Gupta @ Manoj Kumar Son of Virendra Prasad Gupta Resident
of Mohalla- Bari Masjid, Near Bharat Milap Chowk, Mauna Sahebganj, PS-
town, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Shekhar Harshvardhan, Advocate

For the Opposite Party/s : Dr Kumar Uday Pratap, 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 Town Police Station (for brevity, **PS**) Case No 130 of 2023
registered for the offences punishable under Sections 272, 273,
120B of Indian Penal Code and Sections 30 (a) and 37 of the
Bihar Prohibition and Excise Act.

As per the prosecution case, 14.2 litres of foreign
liquor was recovered from the shop of the co-accused Jay
Prakash who disclosed the name of the petitioner.

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



petitioner has two antecedents, 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.

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 Additional Sessions



Judge II -cum- Exclusive Special Excise Judge I, Saran at Chapra in Town PS Case No 130 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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