

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33928 of 2023

Arising Out of PS. Case No.-85 Year-2023 Thana- BHORE District- Gopalganj

SUNIL SAH Son of Jawahir Sah Resident of village - Luhusi, P.O.-
Lamichaur, P.S.- Bhore, Distt.- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dewanand Tiwari

For the Opposite Party/s : Mr.Braj Kishore Pd.(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 a case in
connection with Excise Bhore P.S. Case No. 85 of 2023 arising
out of A.B.P. No. 830 of 2023 dated 4.3.2023 registered for the
offences punishable under sections 30(a) of the Bihar
Prohibition and Excise Act.

As per the prosecution case, total 148 litres of
country made liquor was recovered from three motorcycles.
Further, local 'chowkidar' disclosed the name of the accused



persons including this petitioner.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing incriminating material has been recovered from the conscious possession of the petitioner. Hence no case is made out. Learned counsel has further submitted that the said motorcycle was not being driven by the petitioner at the time of the alleged occurrence. The petitioner is not the owner of the said vehicle as stated in para-6 of the bail petition. The petitioner has no concern with the said recovery. The petitioner has clean 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, 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 learned Court concerned, Gopalganj in connection with Excise Bhore P.S. Case No. 85 of 2023 arising out of A.B.P. No. 830 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)

Ajay Singh/-

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