

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No 34197 of 2023**

Arising Out of PS. Case No.-121 Year-2023 Thana- MAHUA District- Vaishali

RAKESH KUMAR Son of Chandra Deo Singh @ Chandradeep Singh  
Resident of village - Chhitrauli @ Chitrauli, P.S.- Mahuwa, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Ms Rupa Kumari, Advocate

For the Opposite Party/s : Ms Shaheen Begum, 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 Mahuwa Police Station (for brevity, **PS**) Case No 121 of  
2023 dated 28.02.2023 registered for the offences punishable  
under Sections 272, 273/34 of Indian Penal Code and Section 30  
(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, 199.8 litres of illicit  
foreign liquor was recovered from the cattle shed/bathan of the  
petitioner.

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 name of the petitioner was disclosed by the villagers. The said cattle shed was an open place and no wall was there. 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 Special Judge, Excise Court No II -cum- Additional Sesions Judge, Vishali at Hajipur, in Mahuwa PS Case No 121 of 2023 dated 28.02.2023, 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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