

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.55275 of 2023**

Arising Out of PS. Case No.-135 Year-2023 Thana- GOVINDPUR District- Nawada

Arbind Yadav @ Arvind Kumar S/o Alakhdeo Prasad Yadav R/o Village-  
Khakhnadua, P.S- Thali in the District of Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Pankaj Kumar, Adv.

For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, APP

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

2      13-09-2023                      Heard Mr. Pankaj Kumar, learned counsel for the  
petitioner and learned APP for the State.

2. The petitioner apprehends his arrest in connection with Govindpur P.S. Case No. 135 of 2023 registered for the offences punishable under Sections 30(a) and 41 of the Bihar Prohibition and Excise Act, 2016.

3. Allegedly, in the course of vehicle checking, the police intercepted two motorcycles. However, noticing the police personnel, the riders of the motorcycles succeeded in fleeing away leaving their respective motorcycles. In course of search of the motorcycle, which is alleged to have in the name of the petitioner, six liters of country-made *Mahua* liquor was recovered.

4. Learned counsel for the petitioner submits that on



the alleged date of occurrence, in fact, the petitioner met with an accident due to which a small boy sustained some injuries and taking note of the resentment of local people, the petitioner managed to flee away. Subsequently, the petitioner came to know that the present FIR has been instituted showing alleged recovery of country-made liquor from his motorcycle. He further submits that the petitioner has been made accused in this case only in the capacity he being the owner of the motorcycle and even the name of the petitioner has not been disclosed. He next submits that there are infirmities in the search and seizure and that apart none has stated about the presence of the petitioner at the place of occurrence. He lastly submits that the petitioner bears one criminal antecedent, however, he is on bail in the said case.

5. On the other hand, learned counsel for the State opposes the bail application and submits that the petitioner has been found involve in a case of a serious nature. Moreover, the present anticipatory bail application is not maintainable in view of Section 76(2) of the Bihar Prohibition and Excise Act, 2016.

6. Needless to observe that so far the issue regarding the maintainability of anticipatory bail under the Bihar Prohibition and Excise Act is concerned, the conundrum has



already been dispelled by the Full Bench of this Court in the case of **Ram Vinay Yadav vs. The State of Bihar** reported in **2019(2) PLJR 1089**.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner has been made accused in this case only in the capacity of the owner of the motorcycle in question and none of the witnesses has stated about his presence at the place of occurrence, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Excise Judge-I, Nawada in connection with Govindpur P.S. Case No. 135 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C, with a further condition that one of the bailors shall be the own/close family members of the petitioner.

**(Harish Kumar, J)**

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