

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.57552 of 2023**

Arising Out of PS. Case No.-213 Year-2023 Thana- MADHAURAH District- Saran

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BABLU MANJHI S/O BIRENDRA MANJHI RESIDENTS OF VILLAGE-  
ASHAW, P.S- MARHOWRAH, DISTRICT- SARAN AT CHAPRA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Narendra Kumar

For the Opposite Party/s : Mr.Damodar Prasad Tiwary

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH  
SINGH**

ORAL ORDER

3      22-11-2023                      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.

2. Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

3. The Petitioner is apprehending his arrest in  
connection with Marhowrh P.S. Case No. 213 of 2023 dated  
22.04.2023 for the offences punishable u/s 30(a) of the Bihar  
Prohibition and Excise Act.

4. As per the prosecution case, total 35 litres of illicit  
country-made liquor was recovered behind the house of the  
petitioner.

5. Learned counsel for the petitioner has submitted



that the petitioner has falsely been implicated in this case. The petitioner is accused in one more criminal case as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. It is further submitted that the recovery is made from an open place which is assailable to anyone. 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.

6. 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.

7. 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 furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Saran at Chapra in connection with Marhowrh P.S. Case No. 213 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

**(Chandra Prakash Singh, J)**

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