

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.65497 of 2023**

Arising Out of PS. Case No.-405 Year-2023 Thana- Excise P.S. District- Madhepura

1. RUPAK KUMAR SON OF CHANDKISHOR YADAV RESIDENT OF VILLAGE - CHAMGARH, WARD NO.9, P.S. - MURLIGANJ, DISTRICT - MADHEPURA
2. VIVEK SHARMA @ VIVEK KUMAR SON OF CHAND KISHORE SHARMA RESIDENT OF VILLAGE - CHAMGARH, WARD NO.9, P.S. - MURLIGANJ, DISTRICT - MADHEPURA

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Dinesh Prasad Verma, Advocate  
For the Opposite Party/s : Mr. Umanath Mishra, APP

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

ORAL ORDER

2      08-11-2023                      Learned counsel for the petitioners 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 petitioners and learned Additional Public Prosecutor for the State.

3. The petitioners are apprehending their arrest in a case in connection with Madhepura Excise P.S. Case No. 405 of 2023 dated 17.05.2023 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 93 litres of foreign liquor was recovered from a car.

5. Learned counsel for the petitioners has submitted that



the petitioners have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The petitioners have no concern with the alleged recovery. The petitioners were not present on the spot. The name of the petitioners has been disclosed by the co-accused Raju Kumar. The petitioners have no criminal antecedents as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioners. Learned Counsel has relied on the judgment of Full Bench of the Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar 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 petitioners 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 material available on record, let the above named petitioners, in the event of their 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) each with two sureties of the like amount each to the satisfaction of the



learned court concerned, Madhepura in connection with Madhepura  
Excise P.S. Case No. 405 of 2023, subject to conditions as laid down  
under section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

**(Chandra Prakash Singh, J)**

guddukr/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

