

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.74886 of 2023**

Arising Out of PS. Case No.-130 Year-2022 Thana- SAHARGHAT District- Madhubani

DILIP KUMAR RAM @ DILIP RAM son of Ram Krishna Ram Village-  
Saharghat Ps- Saharghat Dist- Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Ashok Kumar, Advocate

For the Opposite Party/s : Mr. Akshay Lal Pandit, A.P.P.

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

ORAL ORDER

2      05-12-2023              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 Saharghat P.S Case No. 130 of 2022 dated  
  
03.07.2022 for the offences punishable u/ss 272, 273 read  
  
with 34 of the Indian Penal Code and 30(a) of the Bihar  
  
Prohibition and Excise Act.

4. As per the prosecution case, total 45 litres of  
  
illicit country made Nepali liquor was recovered from the



motorcycle bearing Registration No. BR-30AC-3393.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that the petitioner is the owner of the said motorcycle but the said vehicle was not being driven at the time of the alleged recovery. The petitioner has no criminal antecedent 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. 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, Madhubani in connection with Saharghat P.S. Case No. 130 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

**(Chandra Prakash Singh, J)**

Nilmani/-

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