

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74182 of 2023

Arising Out of PS. Case No.-290 Year-2023 Thana- JAYNAGAR District- Madhubani

Mehadi Mukhiya @ Mukesh Mukhiya S/O Om Prakash Mukhiya R/O
Village- Jaynagar Bazar Samiti, P.S- Jaynagar, Distt.- Madhubani

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Jha

For the Opposite Party/s : Mr.Sanjay Kumar Sharma

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

ORAL ORDER

2 30-11-2023 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 Jaynagar P.S. Case No. 290 of 2023
corresponding to G.R. No. 1052 of 2023 dated 02.07.2023 for
the offences punishable u/s 272 and 273 read with 34 of the
I.P.C and Section 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 150.3 litres of
illicit liquor has been recovered from an open filed of the
Bhogendra Yadav.



5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. 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. The name of the petitioner was disclosed by the local *chowkidar*. 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 Jaynagar P.S. Case No. 290 of 2023 corresponding to G.R. No. 1052 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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