

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.75969 of 2023**

Arising Out of PS. Case No.-34 Year-2023 Thana- SUHAIL District- Gaya

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Mantu Kumar Vishwakarma Budhan Mistry @ Budhan Vishwakarma R/O  
Village- Pathra, P.S.- Suhail, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Sudhir Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Nityanand, APP

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

ORAL ORDER

2      13-12-2023                      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 a case in  
  
connection with Suhail P.S. Case No. 34 of 2023 dated  
  
01.08.2023 for the offence/s punishable u/s 30(a) of the Bihar  
  
Prohibition and Excise Act.

4. As per the prosecution case, total 15 litres of illicit  
  
liquor was recovered from the possession of the co-accused Anil  
  
Kumar Vishwakarma who disclosed the name of the petitioner  
  
as a liquor trader.



5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. The co-accused Anil Kumar Vishwakarma has disclosed the name of the petitioner as a liquor trader. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. 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 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 material available on record, 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, Gaya in connection with Suhail P.S. Case No. 34 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)**

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