

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.73468 of 2022**

Arising Out of PS. Case No.-11 Year-2022 Thana- BAHERA District- Darbhanga

BAIDHNATH MAHTO Son of Kailu Mahto R/V- Rampur Udai, P.S- Bahera,  
Dist- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Bijay Bhushan Prasad

For the Opposite Party/s : Mr.Khurshid Anwar

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

ORAL ORDER

2      20-01-2023                      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.

Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State through video-  
conferencing.

The Petitioner is apprehending his arrest in a case  
registered for the offences punishable u/s 30(a) of the Bihar  
Prohibition and Excise Act.

As per the prosecution case, total 348.48 litres of  
foreign liquor was recovered from the *parti* land of Bharat Jha.  
The villagers also disclosed the name of the petitioner as  
Baidhnath Mahto and other co-accused persons, namely, Sajjan



Yadav and Santosh Yadav.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is accused in one criminal case which is related to Excise Act as stated at para 3 of the bail petition. Nothing has been recovered from the possession of the petitioner. The said recovery was made from the *parti* land of Bharat Jha who is not made accused in this case. 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.

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.

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, Darbhanga in connection with Bahera P.S. Case No. 11 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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