

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.77325 of 2023**

Arising Out of PS. Case No.-53 Year-2023 Thana- ALINAGAR District- Darbhanga

Govind Jha S/O Rameshwar Jha R/O Village- Andauli, P.S- Alinagar, Distt.-  
Darbhanga (BIHAR).

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Pankaj Kumar Jha, Advocate  
For the Opposite Party/s : Mr. Asha Devi, A.P.P.

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

ORAL ORDER

2      20-12-2023              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 Alinagar P.S Case No. 53 of 2023 dated  
  
20.05.2023 for the offences punishable u/ss 30(a), 32, 41,  
  
47 of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 233.28 litres  
  
of illicit liquor was recovered from the house of the co-  
  
accused Dharmendra Paswan and 27 liters of foreign liquor



from the car parked in front of the said house. It is further alleged that three motorcycles parked in front of the house were also seized by the police and six accused persons were arrested from the spot.

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 not named in the F.I.R. Learned counsel has further submitted that the petitioner is the owner of one of the motorcycles but not being driven at the time of alleged occurrence. 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, Darbhanga in connection with Alinagar P.S Case No. 53 of 2023, 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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