

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.574 of 2023**

Arising Out of PS. Case No.-424 Year-2022 Thana- RAJAOLI District- Nawada

SUBODH YADAV SON OF CHANDRA YADAV @ CHANDRADEV  
YADAV R/O VILLAGE- HATHO CHAK, P.S.- RAJAULI, DISTRICT-  
NAWADA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Rajesh Kumar Sinha

For the Opposite Party/s : Mr.Suresh Prasad Singh

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

ORAL ORDER

2      10-02-2023                      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  
Special Public Prosecutor for the State.

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

As per the prosecution case, on seeing the police, the  
petitioner and the co-accused person managed to flee away after  
throwing 60 litres country made liquor near the bridge. The  
local *chaukidar* and the nearby people disclosed the name of the  
petitioner.



Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. The name of the petitioner has transpired on the basis of the disclosure of the local *chaukidar*. The co-accused person has already been granted bail by the Co-ordinate Bench vide order dated 13.01.2023 passed in Cr. Misc. No. 70869 of 2022. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. Learned Counsel has relied on the judgement 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, 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 learned Court concerned, Nawada connection with Rajaoli P.S. Case No. 424 of 2022, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure with a condition:-

1. The court below shall verify the criminal antecedent of the petitioner and at any stage, if it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands allowed.

**(Chandra Prakash Singh, J)**

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