

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.5040 of 2024**

Arising Out of PS. Case No.-243 Year-2023 Thana- RAHIKA District- Madhubani

Ashok Kumar Singh Son of Rajendra Prasad Resident of Village - Narar  
Pachim, Ward No.9, P.S. - Kaluahi, District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Murari Narain Chaudhary, Advocate

For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

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

ORAL ORDER

2      15-02-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Rahika P.S. Case No. 243 of 2023 dated 28.10.2023 of the offences punishable u/s sections 272, 273, 414, 467, 468, 471, 420 and 120(B) of I.P.C. as well as U/s 30(a) of the Bihar Prohibition and Excise Act 2016.

3. As per the prosecution case, total 203.76 of illicit foreign liquor was recovered from a *Scorpio and a motorcycle*.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal case as stated at para 3 of the bail petition. The petitioner is not named in the F.I.R. and



the name of the petitioner has transpired in this case only on the basis of the owner of the said vehicle. The petitioner is the owner of the said vehicle (*Scorpio*) but the same was not being driven by the petitioner at the time of the alleged recovery. 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.

5. 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.

6. 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 Rahika P.S. Case No. 243 of 2023 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

**(Chandra Prakash Singh, J)**

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