

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.8705 of 2024**

Arising Out of PS. Case No.-398 Year-2023 Thana- UDWANTNAGAR District- Bhojpur

Sanjeev Kumar Dubey @ Sanjiv Kumar Dubey S/O Late Kanchan Dubey  
Village- Ekta Path, Gayatri Nagar, Sudna, Ps. Medninagar, Dist. Palamu At  
Jharkhand.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Shubham Sourav, Adv.

For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, APP.

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

ORAL ORDER

2      22-02-2024      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in  
connection with Udwantnagar P.S. Case No. 398 of 2023 dated  
17.09.2023 for the offence punishable u/s 30(a) of the Bihar  
Prohibition and Excise (Amendment) Act, 2018.

3. As per the prosecution case, total 40 litres of illicit  
country made liquor was recovered from the motorcycle.

4. Learned counsel for the petitioner has submitted  
that the petitioner is innocent and has falsely been implicated in  
this case. No incriminating material has been recovered from the  
conscious possession of the petitioner. The petitioner is the  
owner of the said motorcycle. The said motorcycle was not



being driven by the petitioner at the time of the alleged occurrence. The petitioner has no concern with the alleged recovery. The name of the petitioner has transpired in this case only on the basis of secret information. 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.

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 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, Bhojpur, Ara in connection with Udwanthnagar P.S. Case No. 398 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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