

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.9208 of 2024**

Arising Out of PS. Case No.-123 Year-2023 Thana- ANDHRATHARHI District- Madhubani

Umesh Kumar Chaudhari @ Umesh Chaudhari Son of late Raj Kumar Chaudhari Resident of Village- Gangdwar, PS- Andhrathadhi, Distt.- Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Ashok Kumar Prasad

For the Opposite Party/s : Mr.Asha Devi

**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/her arrest in a case in connection with Andhrathadhi P.S. Case No. 123 of 2023 dated 20.08.2023 for the offence/s punishable u/s 272 and 273 of the IPC and section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 10.230 litres of illicit foreign liquor was recovered from the bush behind the house of the petitioner.

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 recovery was made from an open place that is accessible to anyone. The petitioner has no concern with the alleged recovery. 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,  
Jhanjharpur at Madhubani in connection with Andhrathadhi P.S.  
Case No. 123 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)**

guddukr/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

