

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.13424 of 2024**

Arising Out of PS. Case No.-2 Year-2024 Thana- MEHSI District- East Champaran

Upendra Kumar @ O.P S/o Ramchandra Paswan R/o vill - Amwa, P.S. -  
Mehsi, Distt. - East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Abhishek Kumar  
For the Opposite Party/s : Mr.Pradeep Narain Kumar

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

ORAL ORDER

2      05-03-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in  
connection with Mehsi P.S. Case No. 02 of 2024 dated  
06.01.2024 for the offences punishable u/s 30(a) of the Bihar  
Prohibition and Excise Act.

3. As per the prosecution case, total 682.56 litres of  
illicit foreign liquor was recovered from a bamboo orchard.

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 antecedent as stated at  
para 3 of the bail petition. The recovery is from an open place  
which is accessible to anyone. 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, Motihari, East Champaran in connection with Mehsi P.S. Case



No. 02 of 2024, 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)

atul/-

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