

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.13512 of 2024**

Arising Out of PS. Case No.-765 Year-2023 Thana- MOTIHARI MUFASIL District- East  
Champaran

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Deepak Kumar S/o Gaurishankar Mukhiya R/o vill - Harkaina, P.S. -  
Muffasil, Dist. - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Abhishek Kumar, Adv.

For the Opposite Party/s : Mr. Pradeep Narain Kumar, APP.

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**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 a case in  
connection with Muffasil P.S. Case No. 765 of 2023 dated  
30.10.2023 for the offence punishable u/s 30(a), 32, 41(i) of the  
Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 20 liters of illicit  
country made liquor was recovered from the Harkaina Chawar.

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. Local



Chowkidar disclosed the name of the petitioner and others. 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, Motihari, East Champaran in connection with Muffasil P.S. Case No. 765 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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