

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.12958 of 2024**

Arising Out of PS. Case No.-494 Year-2023 Thana- KUCHAIKOTE District- Gopalganj

JAI PRAKASH YADAV @ TAI YADAV S/O SRI KISHUN YADAV @  
SHRIKISHUN R/O VILLAGE- RAMPUR BANGRA, P.S- TAREYA  
SUJAN, DISTT.- KUSHINAGAR (U.P).

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Javed Aslam, Advocate

For the Opposite Party/s : Ms. Sharda Kumari, APP

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

ORAL ORDER

2      29-02-2024                      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 Kuchaikote P.S. Case no. 494 of 2023 dated 29.09.2023 for the offence punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 531 litres of illicit country made liquor was recovered from the motorcycle and bolero.

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. Petitioner is neither



owner nor driver of the said vehicles. Local people and Mahal Choukidar disclosed the name of the petitioner. 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, Gopalganj in connection with Kuchaikote P.S. Case no. 494 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)**

Prakash/-

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