

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.12402 of 2024**

Arising Out of PS. Case No.-509 Year-2023 Thana- AKBARPUR District- Nawada

Mukesh Rajbanshi S/O- Jairam Rajbanshi R/O- Village- Srirampur, P.S.-  
Akbarpur, Dist.- Nawada.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR, PATNA

... .. Opposite Party/s

**Appearance :**

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

For the Opposite Party/s : Mr.Sanjay Kumar Pandey, 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 connection with Akbarpur P.S. Case No. 509 of 2023 dated 03.11.2023 for the offences punishable u/ss 30(a) and 30(d) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 90 litres of illicit country made liquor, 800 litres of *mahua* solution and an aluminum utensil were recovered from Badka Ahaar, village Srirampur.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal antecedent as stated in



para 3 of the bail petition. The name of the petitioner was disclosed by villagers. It is further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. Nothing 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, Nawada in connection with Akbarpur P.S. Case No. 509 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)**

Gautam/-

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