

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.16251 of 2024**

Arising Out of PS. Case No.-328 Year-2023 Thana- BAUNSI District- Banka

=====

Kunal Kishore son of Shiv Shankar Singh Village- Garia Ps- Madhupur Dist-  
Deoghar Jharkhand

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

**Appearance :**

For the Petitioner/s : Mr.Praveen Kumar

For the Opposite Party/s : Mr.Navin Kumar Pandey

=====

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

ORAL ORDER

2      13-03-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Bounsi P.S Case No. 328/2023 dated 16.11.2023 for the offences punishable u/s 30(a) and 47 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 134.625 litres of illicit foreign liquor was recovered from the Scorpio vehicle.

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 in para 3 of the bail petition. The petitioner is the owner of the said vehicle but the said vehicle was not being driven by the



petitioner at the time of the alleged occurrence. 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,



Banka in connection with Bounsi P.S Case No. 328/2023,  
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/-

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

