

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.30397 of 2024**

Arising Out of PS. Case No.-10 Year-2024 Thana- FESHAR District- Aurangabad

Rampati Yadav, aged about 65 years, Male, Son Of Raghuwar Yadav Resident  
Of Village - Theghwa, P.S. - Phesar, District - Aurangabad (Bihar)

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

**Appearance :**

For the Petitioner : Mr. Anirudh Kumar Verma, Advocate  
For the Opposite Party : Mr. Sanjay Kumar Tiwary, A.P.P.

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

ORAL ORDER

2      19-07-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Phesar P.S. Case No. 10 of 2024 dated 24.01.2024 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 92.8 litres of illicit country made liquor was recovered from the five different motorcycles.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is the owner of one of the motorcycle. The petitioner has no criminal antecedent as stated in para 3 of



the bail petition. It is further submitted that the petitioner has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted anticipatory bail by this Court vide order dated 19.03.2024 passed in Cr. Misc. No. 18528 of 2024. 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 material available on the 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,  
Aurangabad (Bihar) in connection with Phesar P.S. Case No. 10  
of 2024, 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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