

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.25417 of 2024**

Arising Out of PS. Case No.-245 Year-2024 Thana- Excise P.S. District- Muzaffarpur

Prabhashu Kumar@ Prabhanshu Kumar Son of Nathuni Mahto Resident of  
Village- Bajitpur Kodriya, P.S. Kudhani (Turki O.P.), District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Santosh Kumar

For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur

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

ORAL ORDER

2      15-04-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner has preferred this application for grant of anticipatory bail in connection with Muzaffarpur Excise P.S. Case No. 245/2024, dated 07.02.2024, for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, 63.75 litres of illicit foreign liquor was recovered from the possession of the co-accused person (Mani Bhushan Rai).

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 in which he



is on bail as stated in para 3 of the bail petition. The apprehended co-accused person has disclosed the name of the petitioner due to previous enmity. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. Similarly situated co-accused person has already been granted anticipatory bail by this Court vide order dated 08.04.2024 passed in Cr. Misc. No. 23589 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 APP 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, Muzaffarpur in connection with Muzaffarpur Excise P.S. Case No. 245/2024 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)**

Ranjeet/-

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