

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26101 of 2024

Arising Out of PS. Case No.-390 Year-2023 Thana- SAHPUR District- Bhojpur

Uma Shankar Prasad @ Lata Paswan Son of Lalan Prasad Resident of
Village- Dalan Chapra, P.S.- Shahpur, District- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhat Kumar Singh, Adv.

For the Opposite Party/s : Ms. Pushpa Sinha, APP.

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

ORAL ORDER

2 27-06-2024 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 Shahpur P.S. Case No. 390 of 2023 dated
30.08.2023 for the offences punishable u/s 30(a) of the Bihar
Prohibition and Excise Act.

3. As per the prosecution case, total 60 litres of illicit
liquor was recovered from the motorcycle.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. The petitioner is neither the owner nor the driver of
the said motorcycle. Local Chowkidar disclosed the name of the
petitioner. The apprehended co-accused person disclosed the



name of the petitioner. The petitioner has no concern with the alleged recovery. The co-accused has been granted bail by this Bench vide order dated 31.01.2024 passed in Cr. Misc. No. 733 of 2024. 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, Bhojpur
at Ara in connection with Shahpur P.S. Case No. 390 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)

annpurna/-

U		T	
---	--	---	--

