

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.25723 of 2024**

Arising Out of PS. Case No.-6 Year-2024 Thana- SAMHO District- Begusarai

Birju Yadav @ Birja Yadav Son Of Late Mehta Yadav Resident Of Village-  
Jagansaidpur, Ps- Samho, Dist- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Jitendra Sinha  
For the Opposite Party/s : Mr.Sunil Kumar Pandey

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

ORAL ORDER

2      16-04-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Samho P.S. Case No. 06 of 2024 dated 16.02.2024 for the offences punishable u/s 30(a) and 30(c) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 40 litres of illicit country-made liquor and liquor making apparatus were recovered from the bush.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has two criminal antecedents as stated in para 3 of the bail petition. The farmers disclosed the name of



the petitioner. The recovery was from an open place which is accessible to anyone. 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,  
Begusarai in connection with Samho P.S. Case No. 06 of 2024,  
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/-

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