

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.27938 of 2024**

Arising Out of PS. Case No.-191 Year-2015 Thana- GOVERNMENT OFFICIAL COMP.  
District- Nawada

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Kuldip Sharma @ Rakesh Kumar SON OF DHANESHWAR THAKUR @  
DHANESHWAR SHARMA Resident Of Village -Phulwaria Ps- Rajauli  
District- Nawada

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Sheo Kumar Prasad, adv.

For the Opposite Party/s : Mr.Parmanand Kumar,app

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

ORAL ORDER

2      20-04-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his/her arrest in a  
case in connection with G.O. Case No. 191 of 2015 dated  
30.03.2015 for the offence/s punishable u/ss 47(a) (f) of the  
Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 35 litres of illicit  
country made liquor and 360 kg. fermented Jawa Mahua were  
recovered from the north side of the Dhanraj river.

4. Learned counsel for the petitioner has submitted  
that the petitioner is innocent and has falsely been implicated in  
this case. No incriminating material has been recovered from the



conscious possession of the petitioner. The recovery was made from an open place that is accessible to anyone. The name of the petitioner has transpired on secret information. The petitioner has no concern with the alleged recovery. The petitioner has two other criminal antecedents 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 the record, let the above named petitioner, in the event of his/her 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, Nawada in connection with G.O. Case No. 191 of 2015\_, 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)**

guddukr/-

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