

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.32728 of 2024**

Arising Out of PS. Case No.-211 Year-2023 Thana- ISUAPUR District- Saran

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Bidhan Rai @ Bidhan Kumar Son of Biren Rai @ Biran Rai R/O Vill.-  
Chainpur Ghurna, P.S.- Marhowrah, Dist.- Saran

... .. Petitioner/s

Versus

The State of Bihar, Patna

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Ms. Mili Kumari, Advocate

For the Opposite Party/s : Mr. Sangeeta Sharma, APP

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

ORAL ORDER

2      26-07-2024                      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 Isuapur P.S. Case No. 211 of 2023 dated 03.08.2023 for the offence/s punishable u/ss 272, 273 of the IPC and sections 30(a), 38 and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 450 litres of illicit country made spirit was recovered from the trailor of the tractor.

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 petitioner is neither



the owner nor the driver of the said vehicle. The name of the petitioner has transpired on mere suspicion. The petitioner has no concern with the alleged recovery. Similarly situated co-accused person has already been granted anticipatory bail by this Court vide order dated 30.11.2023 passed in Cr. Misc. No. 74096 of 2023. 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 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, Saran at Chapra in connection with Isuapur P.S. Case No. 211 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)**

guddukr/-

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