

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.36368 of 2024**

Arising Out of PS. Case No.-1 Year-2024 Thana- MAKER District- Saran

Rajesh Sahani SON OF Nageshwar Sahani R/O village-Hasanpura Murahi,  
P.S. -Maker, Dist - Saran

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Ashok Kumar, Adv.

For the Opposite Party/s : Mr.Awadhesh Kumar Singh, APP

**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 has preferred this application for grant of anticipatory bail in connection with Maker P.S. Case No. 01 of 2024, dated 02.01.2024, for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 910 litres of spirit was recovered from the bank of river at Hasanpura Murahi Ghat.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has four criminal antecedents as stated at para 3 of the bail petition. The name of the petitioner has surfaced in this case



by local villagers. Nothing has been recovered from the possession of the petitioner rather the recovery has been made from an open place which is accessible to anyone. It is further submitted that the petitioner has no concern with the alleged recovery hence, no case is made out against the petitioner. The co-accused persons have already been granted anticipatory bail by this court vide order dated 16.04.2024 passed in Cr. Misc. No. 26039 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 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, Saran at Chapra in connection with Maker P.S. Case No. 01 of 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)**

Gautam/-

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