

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.39367 of 2024**

Arising Out of PS. Case No.-7 Year-2023 Thana- PANDAUL District- Madhubani

Sunil Kumar Son of Rajeshwar Ray R/o Village - Sorhttha, Surahatha, P.O.-  
Bibipur, P.S.- Belsara (O.P.), District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mrs. Archana Jha, Adv

For the Opposite Party/s : Ms. Sharda Kumari, APP

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

ORAL ORDER

2      23-08-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Pandaul P.S. Case No. 07 of 2023 dated 16.01.2023 for the offences punishable u/s 272, 273 and 120B of the I.P.C. and Sections 30(a), 32(i)(ii), 36 and 41(1) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1179.72 litres of illicit liquor has been recovered from a pick up van.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. No incriminating article has been recovered from



the conscious possession of the petitioner, hence no case is made out. The petitioner is not named in the F.I.R. The name of the petitioner has transpired merely on the basis of owner of the said vehicle. The said seized vehicle was not being driven by the petitioner at the time of the alleged recovery. Similarly situated co-accused has already been granted anticipatory bail by the co-ordinate bench of this court *vide* order dated 02.01.2024 passed in Cr. Misc. No. 78091 of 2023. 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, Madhubani in connection with Pandaul P.S. Case No. 07 of 2023, 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)**

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