

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.37196 of 2024**

Arising Out of PS. Case No.-339 Year-2023 Thana- DAUDPUR District- Saran

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Avinash Goswami SON OF SANJAY KUMAR BHARTI RESIDENT OF  
MOHALLA- BHARTI NIWAS, VEER KUNWAR SINGH COLONY,  
KASHI BAZAR , P.S.- BHAGWAN BAZAR, DIST- SARAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Dhananjay Mishra, Adv.

For the Opposite Party/s : Mrs. Gulnar Begum, APP

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

ORAL ORDER

2      09-08-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Daudpur P.S. Case No. 339 of 2023 dated 10.10.2023 for the offences punishable u/ss 307, 120(b) and 427 of the Indian Penal Code and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 181.400 litres of illicit foreign liquor was recovered from the vehicle and the said vehicle dashed the vehicle of the police personnel due to that some police personnel also sustained injury.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is the owner of the said vehicle and he has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted anticipatory bail by this court vide order dated 29.03.2024 passed in Cr. Misc. No. 20068 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 material available on the record, 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 Daudpur P.S. Case No. 339 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition :-

*(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.*

7. The application stands allowed.

**(Chandra Prakash Singh, J)**

Gautam/-

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