

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41106 of 2024**

Arising Out of PS. Case No.-25 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Madhepura

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Amir Yadav Son of Late Parmeshwari Yadav R/O Vill.- Bhatrandha, Ward no.
05, P.S.- Ghailardh, Dist.- Madhepura

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pawan Kumar, Adv.
For the Opposite Party/s : Mr. Sanjay Kumar, APP

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

ORAL ORDER

2 30-08-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Madhepura Excise P.S. Case No. 25/2021-22 dated 06.05.2021 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 112.50 litres of illicit foreign liquor was recovered from the orchard field.

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. Local people disclosed the name of the petitioner due to previous enmity. Learned counsel has



further submitted that the recovery is made from the open place. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. The similarly situated co-accused has been granted bail by this Court vide order dated 16.04.2024 passed in Cr. Misc. No. 26749 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 APP 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, Madhepura in connection with Madhepura Excise P.S. Case No. 25/2021-22, 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)

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