

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.50798 of 2024**

Arising Out of PS. Case No.-27 Year-2024 Thana- Mathurapur District- Samastipur

Ram Bahadur Ray SON OF JAVAHAR RAY VILLAGE- NAMAPUR  
KHAIRI, PS- CHAKMEHSI, DIST- SAMASTIPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Anish Kumar, Adv.  
For the Opposite Party/s : Mr. Harendra Prasad, 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 is apprehending his/her arrest in a  
case in connection with Mathurapur P.S. Case No. 27 of 2024  
dated 08.05.2024 for the offence/s punishable u/s 30(a) of the  
Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 966.35 litres of  
illicit foreign liquor was recovered from the truck.

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 said vehicle



was not being driven by the petitioner at the time of the alleged occurrence. The apprehended co-accused person disclosed the name of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has five criminal antecedents as stated in para 3 of the bail petition. The similarly situated co-accused has been granted bail by this Court vide order dated 26.06.2024 in Cr. Misc. No. 43630 of 2024. 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 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, Samastipur in connection with Mathurapur P.S. Case No. 27 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with a condition:-

(i) The petitioners are 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 petitioners will liable to be canceled.

7. The application stands allowed.

**(Chandra Prakash Singh, J)**

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