

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60358 of 2024

Arising Out of PS. Case No.-98 Year-2024 Thana- Excise P.S. District- Gaya

Sonu Kumar son of Mathuri Yadav @ Mathura Yadav Resident of Village-
Ragaini, P.S. Fatehpur, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh

For the Opposite Party/s : Mr. Nityanand

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

ORAL ORDER

2 04-10-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in
connection with Excise (Sherghati) P.S. Case No. 98 of 2024
dated 30.07.2024 for the offence/s punishable u/ss 30(a) and 32
(c) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1880 litres of
illicit country made liquor was recovered from the Sumo car.

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 name of the



petitioner has transpired in the confessional statement of the co-accused Surendra Yadav. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. 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. Similarly situated co-accused has already been granted regular bail by this court vide order dated 30.07.2024 passed in Cr. Misc No. 55021 of 2024.

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/her 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, Gaya in connection with Excise (Sherghati) P.S. Case No. 98 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)

guddukr/-

U		T	
---	--	---	--

