

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.66054 of 2024**

Arising Out of PS. Case No.-564 Year-2024 Thana- Excise P.S. District- Aurangabad

Sunil Yadav son of Late Sudeshi Yadav Village- Kala Pahad, Tendua, Ps-  
Tandwa, Dist- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Aman Vishal

For the Opposite Party/s : Mr.Ramesh Chandra

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

ORAL ORDER

2      20-11-2024                      Heard learned counsel for the petitioner and learned  
A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with Excise P.S. Case No. 564 of 2024 dated 10.06.2024 registered for the offences punishable under Section 30(a), 32(3), 41(1) and 41(2) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 180 litres of illicit country made liquor was recovered from the two motorcycles out of which 60 litres of illicit country made liquor was recovered from the motorcycle of the petitioner.

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



this case. The petitioner is owner of one of the said seized vehicle. The name of the petitioner has come in this case on mere suspicion. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in 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. 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, Aurangabad in connection with Excise P.S. Case No. 564 of 2024 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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