

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.73554 of 2024**

Arising Out of PS. Case No.-776 Year-2024 Thana- MAHUA District- Vaishali

Vikash Kumar @ Vikash Singh @ Bala ji Son of Basakit Singh R/O-Village-  
Madhopur, P.S.- Mahua, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Anuj Kumar

For the Opposite Party/s : Mr.Shyam Bihari Singh

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

ORAL ORDER

2      11-12-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Mahua P.S Case No. 776/2024 dated 16.08.2024 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 148.875 litres of illicit foreign liquor was recovered from the house of the co-accused Bindeshwar Paswan.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has 24 criminal antecedents out of which he is on bail in 16 cases as stated in para 3 of the bail



petition. The petitioner is not the owner of the said house. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The other co-accused person has already been granted bail by this court *vide* order dated 11.09.2024 passed in Cr. Misc. No. 65303/024. 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, Vaishali at Hajipur in connection with Mahua P.S Case No. 776/2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further conditions:-

(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 bonds of the petitioner are liable to be cancelled.

(ii). If the petitioner is found involved in similar nature of offence in the future, the prosecution will be on liberty to move for cancellation of his bail bonds.

7. The application stands allowed.

**(Chandra Prakash Singh, J)**

atul/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

