

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.73531 of 2024**

Arising Out of PS. Case No.-915 Year-2023 Thana- HAJIPUR SADAR District- Vaishali

Devendra Pandey Son of Late Gariban Pandey Resident of Vill- Akbar  
Malahi, P.S.- Sarai, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Sunil Kumar Singh

For the Opposite Party/s : Mr.Pronoti Singh

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

ORAL ORDER

2      23-10-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Hajipur Sadar (Kazipur) P.S. Case No. 915/2023 dated 15.12.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act and Section 414 of the I.P.C.

3. As per the prosecution case, total 50 litres of illicit country-made liquor was recovered from the plastic sacks tied with the motorcycle.

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. The petitioner is owner of the said motorcycle. Learned counsel has submitted that the petitioner has sold his motorcycle on 06.02.2020 to one Budhan Thakur. 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, Vaishali at Hajipur in connection with Hajipur Sadar (Kazipur) P.S. Case No. 915/2023, 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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