

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78792 of 2023**

Arising Out of PS. Case No.-491 Year-2023 Thana- WARISLIGANJ District- Nawada

Bhola Chaudhary @ Bhola Kumar Son Of Arjun Chaudhari R/O Village-
Sultanpur, P.S.- Warisaliganj, Dist.- Nawada

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vibhuti Ranjan Sonvadra, Adv.

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala, APP

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

ORAL ORDER

2 04-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Warisaliganj P.S. Case No. 491 of 2023 dated 29.09.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 400 ml of country made liquor was recovered from the deserted motorcycle. The informant also disclosed that the petitioner and the co-accused, Mukun were quarreling each other on the issue of selling liquor.

4. Learned counsel for the petitioner has submitted that the petitioner 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 not the owner of the said motorcycle and he has no concern with the alleged recovery. 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,
Nawada in connection with Warisaliganj P.S. Case No. 491 of
2023, 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)

Gautam/-

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

