

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.80156 of 2023**

Arising Out of PS. Case No.-506 Year-2023 Thana- HAJIPUR SADAR District- Vaishali

NIRAJ KUMAR ROY @ NIRAJ KUMAR Son of Mukhtar Roy R/o vill -  
Manya Rai Dih, P.S. - Hajipur Sadar, Distt. - Vaishali

... .. Petitioner/s

Versus

THE STATE OF BIHAR PATNA

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Fakhruddin Ali Ahmad  
For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur

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

ORAL ORDER

2      09-01-2024                      Learned counsel for the petitioner is permitted to  
remove the defect(s), as pointed out by the office, if any, within  
a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

3. The Petitioner is apprehending his arrest in  
connection with Hajipur Sadar P.S. Case No. 506 of 2023 dated  
28.06.2023 for the offences punishable u/s 414 of the IPC and  
Section 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, 42 litres of foreign  
liquor was recovered from the house of the co-accused Mukhtar  
Ray and 25 litres of foreign liquor was recovered from the  
Wagon R car parked in front of the house of the co-accused



Mukhtar. Further, 23 litres of foreign liquor was recovered from the motorcycle of the petitioner.

5. 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 at 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. The petitioner is owner of one of the vehicle but the said vehicle was not being driven by the petitioner at the time of alleged occurrence. 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.

6. 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.



7. 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 P.S. Case No. 506 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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