

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.80410 of 2023**

Arising Out of PS. Case No.-152 Year-2022 Thana- NADI P.S. District- Patna

Chhotu Paswan @ Chhote Paswan S/O Sippy Paswan @ Swarup Paswan  
Resident Of Village- Sammaspur Jafrabad, Police Station- Nadi, District-  
Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Jay Ram Prasad, Adv.

For the Opposite Party/s : Mr.Dr. Indiwari Kumari, APP

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

ORAL ORDER

2      10-01-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Nadi P.S. Case No. 152 of 2022 dated 12.04.2022 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 6.4 litres of illicit country made *mahua* liquor was recovered from the bag near the iron bridge of village, Samaspur.

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 name of the petitioner was disclosed by local



people. Learned counsel has further submitted that the petitioner has no concern with the alleged recovery and 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,  
Patna City in connection with Nadi P.S. Case No. 152 of 2022,  
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/-

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