

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.83541 of 2023**

Arising Out of PS. Case No.-391 Year-2023 Thana- SAHPUR District- Bhojpur

Hari Singh @ Bagha Singh @ Abhinandan S/O Suresh Singh R/O Village-  
Iswarpura, P.S- Shahpur (Karnamepur), Distt.- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Vijay Shankar Upadhyay, Adv.

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

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

ORAL ORDER

2      19-01-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Shahpur P.S. Case No. 391 of 2023 dated 30.08.2023 for the offences punishable u/ss 307 read with section 34 of the Indian Penal Code as well as u/s 27 of the Arms Act and u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 55.980 litres of illicit foreign liquor was recovered from the motorcycle as well as the orchard of the co-accused, Uma Shankar Mishra.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has one criminal antecedent as stated in para 3 of the



bail petition. The name of the petitioner was disclosed by local *chowkidar*. It is further submitted that the said motorcycle does not belong to the petitioner and he has no concern with the said orchard. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. 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, Bhojpur, Ara in connection with Shahpur P.S. Case No. 391 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/-

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