

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.3307 of 2024**

Arising Out of PS. Case No.-182 Year-2019 Thana- UDWANTNAGAR District- Bhojpur

Shyam Babu Kumar S/o - Bhagelu Singh @ Bhogolu Singh R/o Village -  
Bhagwatipur, P.S.- Udwanthnagar, Dist.- Bhojpur (Ara).

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Amarrendra Kumar

For the Opposite Party/s : Mr.Kumar Ranjit Ranjan

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

ORAL ORDER

2      09-02-2024                      Learned counsel for the petitioner is directed 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 Udwanthnagar P.S. Case No. 182 of 2019, dated  
16.05.2019 for the offences punishable under Section 30(a) of  
the Bihar Prohibition and Excise (Amendment) Act, 2018.

4. As per the prosecution case, total 800 litres of semi-  
prepared country made liquor has been recovered from the bank  
of river near the Government School.

5. 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 name of the petitioner was disclosed by the local Choukidar. No incriminating material has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. The petitioner has been made accused in the present case because he is registered owner of the motorcycle but at the time of the alleged occurrence, the said motorcycle was not being driven by 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.

6. Learned APP 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, Bhojpur, Ara in connection with Udwanthnagar P.S. Case No. 182 of 2019, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

**(Chandra Prakash Singh, J)**

Ranjeet/-

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