

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.148 of 2024**

Arising Out of PS. Case No.-1062 Year-2023 Thana- BHAGALPUR KOTWALI District-  
Bhagalpur

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Raj Kumar Shah Son of Late Sita Ramjee Sah R/O. Mohalla- Gurudwara  
Road, Bhagalpur P.S. - Kotwali Dist. - Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Suman Kumar

For the Opposite Party/s : Mr.Umeshanand Pandit

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

ORAL ORDER

2      31-01-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Kotwali (Tilkamanjhi) P.S. Case No. 1062 of 2023 dated 02.11.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 1.125 litres of foreign liquor was recovered from the apprehended person, 3.1 litres of foreign liquor was recovered from the motorcycle and 5.25 litres of foreign liquor was recovered from the scooty.

4. 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 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 the owner of the scooty but the said scooty was not being driven by the petitioner at the time of the 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.

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, Bhagalpur in connection with Kotwali (Tilkamanjhi) P.S. Case No. 1062 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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