

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.86622 of 2023**

Arising Out of PS. Case No.-385 Year-2023 Thana- BARAUNI District- Begusarai

Priyanshu Kumar @ Tau @ Raja Kumar @ Tau Son of Dinesh Mahto R/o  
ward no. 4, Thakurichak, P.s. - Barauni, Distt. - Begusarai

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Pritish Kumar Lal, Advocate.

For the Opposite Party/s : Mr. Ahmad Ali, A.P.P.

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

ORAL ORDER

2      30-01-2024              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 Barauni P.S Case No. 385 of 2023 dated  
30.07.2023 for the offences punishable u/s 30(a) of the  
Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 26.340 litres  
of illicit liquor was recovered from the two motorcycles.

5. Learned counsel for the petitioner has submitted



that the petitioner is innocent and has falsely been implicated in this case. It is further submitted that local chaukidar disclosed the name of the petitioner. The said vehicle does not belong to the petitioner and the same was not being driven by the petitioner. The petitioner has one 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. 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, Begusarai in connection with Barauni P.S Case No. 385 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

**(Chandra Prakash Singh, J)**

Nilmani/-

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