

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 1176 of 2025

Arising Out of PS. Case No.-261 Year-2023 Thana- BAUNSI District- Banka

Bhushan Kumar S/o- Late Rajeshwar Sah Residence of Ward Number 3
Village- Sripur Police Station- Cheriya Bariyarpur District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kundan Kumar, Advocate

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, A.P.P.

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

ORAL ORDER

2 28-02-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Baunsi P.S Case No. 261 of 2023, dated 06.09.2023, for the offences punishable under Sections 279, 333, 337, 332 and 338 of the I.P.C. and under Sections 30(a), 42, 44 and 45 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 233.31 litres of illicit foreign liquor was recovered from the Bolero.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is not the owner of the said vehicle, however, he was the driver of the vehicle in question, but he was



not aware about it. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The other co-accused person has already been granted bail by this court *vide* order dated 02.04.2024, passed in Cr. Misc. No. 21538 of 2024. 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, Banka, in connection with Baunsi P.S. Case No. 261 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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