

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3984 of 2025

Arising Out of PS. Case No.-574 Year-2024 Thana- WAJIRGANJ District- Gaya

Dharmendra Kumar S/O Anil Prasad Resident of village - Kharhari, Police
Station- Muffasil, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Braj Nandan Kumar Tiwary, Adv.

For the Opposite Party/s : Mr. Bishweshwar Ram, APP

**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 a case in connection with Wazirganj P.S. Case No. 574 of 2024 dated 14.08.2024 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 50 litres of illicit country-made mahua was recovered from the Tempo.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The petitioner is not named in the FIR. The petitioner has been made accused in this



case only because he is the owner of the said vehicle, but he has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The co-accused has been granted bail by this Court vide order dated 25.09.2024 passed in Cr. Misc. No. 68972 of 2024. Learned counsel has submitted that 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 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 material available on record, 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, Gaya in connection with Wazirganj P.S. Case No. 574 of 2024, subject to conditions as laid down under section 482(2) of the B.N.S.S.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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