

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 1558 of 2025

Arising Out of PS. Case No.-699 Year-2024 Thana- Excise P.S. District- Gaya

Awadhesh Yadav S/o Bihaspati Yadav 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, Advocate
For the Opposite Party/s : Mr. Bishweshwar Ram, 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 Excise P.S Case No. 699 of 2024, dated 13.07.2024, 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 liquor was recovered from the Motorcycle.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is the owner of the said vehicle. 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 07.08.2024, passed in Cr. Misc. No. 57357 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, Gaya, in connection with Excise P.S. Case No. 699 of 2024, subject to conditions as laid down under section 482(2) of the B.N.S.S.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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