

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4647 of 2025

Arising Out of PS. Case No.-402 Year-2024 Thana- Excise P.S. District- Aurangabad

Ashish Kasera @ Ashish Kumar Kasera S/O Shrawan Prasad Kasera Resident
of Pachna road, Kiul basti, ward no.- 22, P.S.- Lakhisarai, District-Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amit Anand, Adv.
For the Opposite Party/s : Ms.Asha Kumari, APP

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

ORAL ORDER

2 25-04-2025 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. 402 of 2024 dated 03.05.2024. registered for the offence punishable u/ss 30(a) and 32(3) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 328.32 litres of illicit country made liquor was recovered from the car.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. The petitioner is the registered owner of the said vehicle but the same was not being driven by the petitioner at



the time of the alleged recovery. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused persons have already been granted regular bail by this court vide order dated 25.06.2024 passed in Cr. Misc. No. 42999/2024. 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, Aurangabad, in connection with ABP No. 2743/2024 arising out of Excise P.S. Case No. 402 of 2024, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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