

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7031 of 2025

Arising Out of PS. Case No.-262 Year-2022 Thana- Excise P.S. District- Banka

Raj Kishore Ray S/o Late Mahavir Ray, R/o Village- Jagatpur, PS- Banka,
District- Banka.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Brij Nandan Prasad, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar, APP

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

ORAL ORDER

2 02-05-2025 Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Banka Excise P.S. Case No. 262 of 2022, dated 24.11.2022 in a case registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1.875 litres of illicit foreign liquor was recovered from the shop of the co-accused Sunil Mandal.

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 neither the owner the shop in question nor he has any concern with the



alleged recovery. Petitioner is not even named in the FIR and his name sprung up on the basis of petition filed by the learned Additional Public Prosecutor for the State. The investigating officer of the case has not found anything against the petitioner. The main accused of the case from whose shop the alleged recovery was made has been granted bail by the learned trial Court. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. The similarly situated co-accused person namely, Uttam Kumar Sah @ Uttam Sah has been granted anticipatory bail by this Court *vide* order dated 12.03.2024 passed in Cr. Misc. No. 15667 of 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 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 petitioner, above-named, 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 only) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Excise Court-II, Banka, in connection with **Banka Excise P.S. Case No. 262 of 2022**, 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)

Shahnawaz/-

U		T	
---	--	---	--

