

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5257 of 2025

Arising Out of PS. Case No.-179 Year-2024 Thana- RIVILGANJ District- Saran

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Dilip Kumar Sharma @ Dileep Kumar Sharma son of Jaleshwar Sharma
Resident Of Village- Chainpura dariyapur, Ps -Naubatpur, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ram Binod Singh

For the Opposite Party/s : Mr.Shyam Bihari Singh

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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 Rivilganj P.S. Case No. 179 of 2024 dated 17.06.2024 registered for the offences punishable u/s 30(a) and 41(1) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 2316 litres of illicit foreign liquor was recovered from the two Mahindra tractors, one pick-up van and a motorcycle.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The name of the petitioner has sprung



up in the confessional statement of the co-accused, Shankar Yadav. The petitioner is the registered owner of the said Mahindra Tractor but the said vehicle was not being driven by the petitioner at the time of the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted anticipatory bail by this Court vide order dated 20.11.2024 passed in Cr. Misc. No. 63094 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 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, Saran at Chapra in connection with Rivilganj P.S. Case No. 179 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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