

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3753 of 2025

Arising Out of PS. Case No.-783 Year-2024 Thana- Excise P.S. District- Gaya

Santosh Pathak Son of Rama Shankar Pathak resident of Village- Bit Gate
Rudia, P.S.- Meshra (O.P.), Sadar, Distt.- Ranchi (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sudhir Kumar Sinha, Adv.

For the Opposite Party/s : Mr. Upendra Kumar, 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 Excise P.S. Case No. 783 of 2024 dated
04.08.2024 registered for the offences punishable u/s 30(a) and
32(3) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 225 litres of
illicit english wine was recovered from the dickey of the
vehicle.

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 said vehicle was not



being driven by the petitioner at the time of alleged recovery. The petitioner is the owner of the said vehicle. 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 11.09.2024 passed in Cr. Misc. No. 65300 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 Excise P.S. Case No. 783 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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