

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15006 of 2025

Arising Out of PS. Case No.-293 Year-2024 Thana- WARISNAGAR District- Samastipur

Shambhu Chaudhary S/o- Maheshwar Chaudhary Resident of Village- Bhado
Ghat PS- Waris Nagar District- Samastipur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Raja Ram Mishra
For the Opposite Party/s : Mr.Nityanand

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

ORAL ORDER

3 18-07-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Waris Nagar P.S Case No. 293/2024 dated 11-12-2024 for the offences punishable u/s 30(a), 30(c) and 30(d) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 102 litres of illicit country-made liquor was recovered from house of the petitioner and the co-accused persons.

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 other co-accused persons have



already been granted regular bail by this court *vide* order dated 22.03.2025 passed in Cr. Misc. No. 11468/2025. 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. It is further submitted that the recovery is made from the house of the petitioner and the co-accused persons.

6. Considering the aforesaid facts and circumstances of the case as well as the material available on the record against the petitioner, I am of the view that no case for grant of anticipatory bail is made out. The petition is disposed of and the petitioner is directed to surrender to the Court below within six weeks from the date of this order and the Court below may



consider the prayer of the bail of the petitioner in accordance with law and on its own merits without being prejudice by this order.

7. This application is disposed of.

(Chandra Prakash Singh, J)

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