

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5798 of 2025

Arising Out of PS. Case No.-260 Year-2024 Thana- BAIKUNTHPUR District- Gopalganj

Omprakash Kumar Son of Kamakhaya Prasad R/V-Hamindpur, P.S-
baikunthpur, Distt.- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeet Kumar Singh, Adv.

For the Opposite Party/s : Mr.Dinesh Singh, 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 Baikunthpur P.S Case No. 260/2024 dated 08.08.2024 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 1000 litres of illicit spirit was recovered from the Sugarcane field.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has three criminal antecedents as stated in para 3 of the bail petition. The recovery is from an open place which is accessible to anyone. The other co-accused person has



already been granted bail by this court *vide* order dated 18.10.2024. passed in Cr. Misc. No. 66198/2024. 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.

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, Gopalganj in connection with Baikunthpur P.S Case No. 260/2024, subject to conditions as laid down under section 482(2) of the B.N.S.S. with further condition :-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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