

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7590 of 2025

Arising Out of PS. Case No.-53 Year-2023 Thana- ATRI District- Gaya

Mayank Uday Singh @ Gautam Son of Buddan Singh @ Uday Singh, R/o
Village- Hadsa, PS- Hisua, Distt.- Nawada.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Mrigendra Kumar, Advocate
For the Opposite Party/s : Mr. Vinod Shanker Modi, 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 Atri P.S. Case No. 53 of 2023, dated 05.02.2023 in a case registered for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 82 litres and 500 milliliters of illicit foreign liquor was recovered from a bush near a pine.

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, rather the recovery was made from an open place that was accessible to anyone and



petitioner has no concern with the alleged recovery. The petitioner is the brother of co-accused Manish Bharti, who had past history and as such, petitioner was also named in the FIR. The petitioner has five criminal antecedents out of which three are of similar nature as stated in paragraph no. 3 of the bail petition. The similarly situated co-accused has been granted bail by this Court *vide* order dated 14.08.2024 passed in Cr. Misc. No. 58577 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 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 No. 1, Gaya, in connection with **Atri P.S. Case No. 53 of 2023**, 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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