

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9085 of 2025

Arising Out of PS. Case No.-328 Year-2023 Thana- VAISHALI District- Vaishali

Mithun Paswan S/O Late Mishri Paswan Resident of Village- Madwa Pakar,
P.S- Saraiya, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar

For the Opposite Party/s : Mr.Parmanand Prasad

**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 Vaishali P.S. Case No. 328 of 2023 dated 03.08.2023 of the offences punishable u/s 30(a), 41(1) of the Bihar Prohibition and Excise Act 2018.

3. As per the prosecution case, total 4330.41 litres of illicit foreign liquor was recovered from the *Truck*.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has six criminal antecedents as stated in para 3 of the bail petition. The petitioner is not the owner of the said vehicle and the same was not being driven by him at the



time of the alleged recovery. The name of the petitioner has transpired on mere suspicion. 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, Vaishali at Hajipur in connection with Vaishali P.S. Case No. 328 of 2023 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further condition/s:-

(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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