

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12001 of 2025

Arising Out of PS. Case No.-173 Year-2024 Thana- EXCISE SHERGHATI District- Gaya

Dharmendra Kumar Yadav @ Dharmendra Kumar Yadav Son of Munarik
Yadav Resident of Vill- Kalhawra Khairi, P.S.- Gurua, District- Gaya (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Aman Vishal, Advocate

For the Opposite Party/s : Mr. Nand Kishore Prasad, APP

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

ORAL ORDER

2 09-05-2025 Heard learned counsel for the petitioner and learned
A.P.P for the State.

2. The petitioner is apprehending his/her arrest in a case in connection with Excise Sherghati P.S. Case No. 173/2024 dated 06.10.2024 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 80 litres of illicit country-made *chulai* liquor was recovered from the motorcycle.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. The petitioner is not named in the



FIR. The name of the petitioner has been transpired in this case only on the basis that he is the owner the said motorcycle. The co-accused, namely, Om Prakash Kumar has taken the said seized motorcycle from the petitioner for going to market from his house and the petitioner has no concern with the alleged recovery. The said co-accused person, namely Om Prakash Kumar has already been granted regular bail by this Court vide order dated 09.01.2025 passed in Cr. Misc. No. 85920 of 2024. The petitioner has clean antecedent as stated in para 3 of the bail petition. 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 the record, let the above named petitioner, in the event of his/her 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 (Sherghati) P.S. Case No. 173 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)

ajay/-

U		T	
---	--	---	--

