

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23182 of 2025

Arising Out of PS. Case No.-536 Year-2017 Thana- BARACHATTI District- Gaya

Kailash Singh Son of Ram Sihasan Singh @ Ram Sinhasan Singh Resident of
village- Surauni Khurd, Dumar, PS -Muffasil District -Hazaribagh Jharkhand
... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Yogesh Kumar, Adv.
For the Opposite Party/s : Mr.Dinesh Singh, APP

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

ORAL ORDER

2 04-07-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Barachatti (Barachatty) P.S. Case No. 536/2017 dated 01.09.2017 registered for the offences punishable u/ss 30(a), 38 and 47 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 33 litres of illicit liquor was recovered from the co-accused persons who were found sitting in the tempo bearing Reg. No. JH-02Z-5976.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is the owner of the seized vehicle but the same was not being driven by the petitioner at the time



of the alleged recovery as stated in para 9 of the bail petition. The petitioner has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted anticipatory bail by this court vide order dated 13.03.2024 passed in Cr. Misc. No. 16270/2024. 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, Gaya in connection with Barachatti (Barachatty) P.S. Case No. 536/2017, 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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