

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18034 of 2025

Arising Out of PS. Case No.-578 Year-2024 Thana- MASHRAK District- Saran

Ritesh Kumar Gupta Son of Binod Kumar Gupta R/O- Kharidabangali Para,
P.S- Kharagpur,- Distt- West Midnapore, West Bengal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Akshay Tripathi, Adv.
For the Opposite Party/s : Mr.Narsingh Tanti, APP

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

ORAL ORDER

4 26-09-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Mashrakh P.S. Case No. 578/2024 dated 16.10.2024 registered for the offences punishable u/ss 30(a), 33, 34(a), 34(b), 37(A), 37(B), 47, 34 of the Bihar Prohibition and Excise Act and Sections 123, 105, 110, 61(2) read with Section 3(5) of the B.N.S.

3. As per the prosecution case, the petitioner is involved in trade of illegal liquor and many people died after drinking poisonous liquor. It is further alleged that total 7.5 litres of spirit liquor was recovered from the other FIR named co-accused persons.



4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. The petitioner is not named in the F.I.R. The name of the petitioner has sprung up in the confessional statement of the co-accused, Deepak Chaudhary which has been mentioned in para 108 of the case diary. 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 regular bail by this court vide order dated 25.02.2025 passed in Cr. Misc. No. 4100/2025. 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, Saran at Chapra in connection with Mashrak P.S. Case No. 578/2024, subject to conditions as laid down under section 482(2) of the B.N.S.S. with the 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. The application stands allowed.

(Chandra Prakash Singh, J)

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