

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23024 of 2025

Arising Out of PS. Case No.-216 Year-2024 Thana- Excise Benipatti District- Madhubani

Sunil Mukhiya Son of Shiv Mukhiya @ Shivu Mukhiya vill- Benipatti, Ward
no. 14, P.S.- Benipatti, Dist- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Kumari Pallavi, Adv.

For the Opposite Party/s : Mr.Awadhesh Kumar 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 Benipatti Excise P.S. Case No. 216 of 2024 dated 30.12.2024 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 225 litres of illicit Nepali country made liquor kept in five plastic sacks was recovered from the semi constructed toilet outside of the house of the co-accused person.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The name of the petitioner was disclosed by the apprehended co-



accused person. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. It is further submitted that the petitioner has no concern with the alleged recovery rather the recovery has been made from an open place which is accessible to anyone. The co-accused person has already been granted regular bail by this court vide order dated 28.03.2025 passed in Cr. Misc. No. 14772/2025. 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, Madhubani in connection with Benipatti Excise P.S. Case No. 216 of 2024, 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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