

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25659 of 2025

Arising Out of PS. Case No.-137 Year-2024 Thana- SRIPUR District- Gopalganj

Shyamsundar Prasad @ Sundar Ji @ Shyam Kumar Kushwaha S/O Kailash Prasad R/O Village- Paigambarpur, P.S- Siwaipatti, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Satyendra Rai

For the Opposite Party/s : Mr.Humayou Ahmad Khan

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 a case in connection with Sripur P.S. Case No. 137 of 2024 dated 01.08.2024 registered for the offences punishable u/ss 317(5) of B.N.S. and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 326.340 litres of illicit foreign liquor was recovered from the Bolero car.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is not the owner of the seized vehicle as stated in para-9 of the bail petition. The name of the petitioner



has sprung up in the confessional statement of the co-accused, Sunil Kumar. No incriminating material has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has five criminal antecedents in which he is on bail 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 record, 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, Gopalganj in connection with Sripur P.S. Case No. 137 of 2024, subject to conditions as laid down under section 482(2) of the Code of Criminal Procedure, with a 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 bonds of the petitioner are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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