

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25829 of 2025

Arising Out of PS. Case No.-167 Year-2024 Thana- SAKRI District- Madhubani

Amir Khan @ Amir S/o Shareef Husain @ Shareef R/o 172, Pakwada Road,
Hisampur, P.s.- Sirsi S.O. (Moradabad), Distt.- Moradabad, State - U.P. At
present R/o Amir Vandaya, P.S.- Kichcha, Distt.- Vdham Singh Nagar, State -
Uttarakhand

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vikas Kumar Jha

For the Opposite Party/s : Mr.Lalan Kumar

**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 Sakari P.S. Case No. 167 of 2024 dated
01.08.2024 (G.R. No. 1074/2024) registered for the offences
punishable u/ss 274, 275 read with Section 3(5) of B.N.S. and
Sections 30(a), 36, 38(1) and 41(1) of the Bihar Prohibition and
Excise Act.

3. As per the prosecution case, total 6606 litres of
illicit foreign liquor was recovered from the truck.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in



this case. The petitioner is the owner of the said vehicle as stated in para-5 of the bail petition. 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 no criminal antecedent as stated in para 3 of the bail petition. The co-accused person has already been granted regular bail by this Court vide order dated 18.09.2024 passed in Cr. Misc. No. 67307 of 2024. 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, Madhubani in connection with Sakari P.S. Case No. 167 of 2024, subject to conditions as laid down under section 482(2) of the B.N.S.S., with a condition:-

(i) One of the bailors shall be a close reative of the petitioner who shall give genealogy as to how he is related to the petitioner.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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