

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25263 of 2025

Arising Out of PS. Case No.-574 Year-2024 Thana- MOTIHARI MUFASIL District- East
Champaran

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Shambhu Mahto @ Shambhu Prasad son of Ashari Mahato @ Asharfi Prasad
Resident of village- Godhwa, Ps- Muffasil, Dist- East champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Abhishek Kumar
For the Opposite Party/s : Mr.Ram Priya Sharan Singh

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**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 Motihari Muffassil P.S. Case No. 574 of 2024 dated 22.11.2024 registered for the offences punishable u/ss 274, 275 of the BNS and Section 30(a) of the Bihar Prohibition and Excise Amendment Act.

3. As per the prosecution case, total 20 litres of illicit spirit was recovered from the house of the courtyard of the co-accused, Lal Bahadur Manjhi @ Bam Bholi Manjhi, who told that the said liquor was purchased from the petitioner.

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 said house and he has no concern with the alleged recovery. No incriminating material has been recovered from the conscious possession of the petitioner. 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 28.03.2025 passed in Cr. Misc. No. 15317 of 2025. 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, East Champaran in connection with Motihari Muffassil P.S. Case No. 574 of 2024, subject to conditions as laid down under section 482(2) of the B.N.S.S.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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