

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29086 of 2025

Arising Out of PS. Case No.-858 Year-2023 Thana- BANKA District- Banka

=====

Lalu Das S/o Shobhan Das Resident of Vill.- Domuhan, Harijan Tola, P.S.-
Banka, Distt.- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Pandey, Adv.

For the Opposite Party/s : Mr. Harendra Prasad, APP

=====

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

ORAL ORDER

2 11-07-2025 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 Banka P.S. Case No. 858 of 2023 dated
30.12.2023 registered for the offences punishable u/s 30(a) of
the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 150 litres of
illicit country-made liquor was recovered from the two
motorcycles which were found in the middle of the Chandan
River.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. The name of the petitioner was disclosed by the local



Chowkidar. The recovery has been made from an open place which is accessible to anyone. No incriminating material has been recovered from the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery and the seized motorcycles. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The co-accused person has already been granted anticipatory bail by this Court vide order dated 27.09.2024 passed in Cr. Misc. No. 57463 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, Banka in connection with Banka P.S. Case No. 858 of 2023, 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)

shivam/-

U		T	
---	--	---	--

