

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31204 of 2025

Arising Out of PS. Case No.-12 Year-2025 Thana- Bathnaha District- Araria

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Bikesh Kumar Sharma @ Khatwe S/o Mahanand Sharma @ Mahanand
Khatave R/o vill - Jimrahi, Sonapur, ward no. 3, P.S.- Bathnaha, Distt.- Araria,
Bihar

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Choubey

For the Opposite Party/s : Mr.Pradeep Narain Kumar

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

ORAL ORDER

2 18-07-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his/her arrest in a case in connection with Bathnaha P.S. Case No. 12 of 2025 dated 04.02.2025 for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act and sections 338, 340(2), 303(2), 317(2) of the BNS.

3. As per the prosecution case, total 81 litres of illicit Nepali-country made liquor was recovered from the motorcycle.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the



conscious possession of the petitioner. The petitioner is neither the owner nor the driver of the said vehicle. The name of the petitioner has transpired on mere suspicion. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent 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 the record, let the above named petitioner, in the event of his/her 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, Araria in connection with Bathnaha P.S. Case No. 12 of 2025, subject to conditions as laid down under section 482(2) of the BNSS.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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