

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34574 of 2025

Arising Out of PS. Case No.-1237 Year-2024 Thana- Excise P.S. District- Kishanganj

Dina Ray son of Dalveshwar Ray Village- Lakshmi naryanpur Govindpur Ps-
Tisiauta District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar

For the Opposite Party/s : Mr.Nirmala Kumari

**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 arrest in connection with Madhya Nishedh P.S. Case No. 1237/2024 giving rise to Special Case No. 1257/2024 dated 29.10.2024 registered for the offence punishable u/ss 30(a) and 32(3) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 810 litres of illicit foreign liquor was recovered from the pick up van.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The other co-accused persons have



already been granted regular bail by this court *vide* order dated 18.01.2025 passed in Cr. Misc. No. 86462/2024. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The petitioner is the owner of the said vehicle but the said vehicle was not being driven by the petitioner at the time of the alleged occurrence. 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 reported in 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 nature of allegation against the petitioner, 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, Kishangunj in connection with Madhya Nishedh P.S. Case No. 1237/2024, subject to conditions as laid down under section 482(2) of the B.N.S.S.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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