

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36338 of 2025

Arising Out of PS. Case No.-31 Year-2025 Thana- SONBERSHA RAJ District- Saharsa

Gaurav Jha @ Gaurav Mishra S/o Bablu Jha @ Bablu Mishra R/o Village-
Lagma, P.S.- Sonbarsa Raj, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Adv.

Mr. Amarnath Jha, Adv.

For the Opposite Party/s : Mr. Awadhesh Kumar Singh

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

ORAL ORDER

2 25-07-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Sonbarsa Raj P.S. Case No. 31/2025 dated 24.02.2025 registered for the offences punishable u/s 30(a) and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 2698.485 litres of illicit foreign liquor was recovered from the truck.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has two criminal antecedents as stated in para 3 of the bail petition. The name of the petitioner was disclosed by the co-accused person. The petitioner is neither the owner nor the



driver of the seized vehicle and he has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused person has already been granted regular bail by this court vide order dated 22.04.2025 passed in Cr. Misc. No. 23469/2025. 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, Saharsa in connection with Sonbarsa Raj P.S. Case No. 31/2025, 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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