

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46383 of 2025

Arising Out of PS. Case No.-35 Year-2025 Thana- Excise P.S. District- Bhojpur

Mukesh Kumar S/o Raj Kumar Ray R/o Vill- Dariyapur, P.S.- Fatuha, Distt- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shyam Kumar Chaudhary

For the Opposite Party/s : Mr. Rina Sinha

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 01-08-2025 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

2. Learned counsel for the petitioner is permitted to make correction in para. 5 of the bail petition in the course of the day.

3. The petitioner is apprehending his arrest in connection with Excise Sadar P.S. Case No. 35/2025 dated 17.02.2025 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 264 litres of illicit foreign liquor was recovered from the Safari vehicle.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. As per para. 5 of the bail petition, the petitioner is the owner of the said vehicle. The other co-accused persons have already been granted regular bail by this court *vide* order dated 21.04.2025 passed in Cr. Misc. No. 22060/2025. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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.

6. 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.

7. 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, Bhojpur at Ara in connection with Excise Sadar P.S. Case No. 35/2025, subject to conditions as laid down under section 482(2) of the B.N.S.S, with further condition:-

(i). The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner is liable to be cancelled.

8. This application stands allowed.

(Chandra Prakash Singh, J)

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