

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38285 of 2025

Arising Out of PS. Case No.-2705 Year-2024 Thana- Excise P.S. District- Patna

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Santosh Kumar Son of Ram Shlok Rai RO Vill- Noorpur, Katra Bazar Samiti
,Simli Murarpur, PS Malsalami, Distt.-Patna. (Owner of Bajaj Maxima Tempo
bearing Reg. No. BR01GN-3945, Chesis no. MD2B25BX8RWK01949,
Engine no.- AZXWRK84542)

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nityanand Kumar

For the Opposite Party/s : Mr.Asha Devi

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**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 Excise P.S. Case No. 2705 of 2024 dated
27.11.2024 registered for the offences punishable u/ss 30(a),
56(b), 30(c) and 36 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 8 litres spirit,
wrapper of Royal Stag (2000 pieces), wrapper of Imperial Blue
Whiskey (500 pieces), cap (2000 pieces), QR Code (2000
pieces), empty pet bottle (2000 pieces) were recovered from the
Tempo.

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. As per para. 6 of the bail petition, the petitioner is the owner of the said tempo. The other co-accused person has already been granted regular bail by this court *vide* order dated 02.04.2025 passed in Cr. Misc. No.16040/2025. 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.

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, Patna in connection with Excise P.S. Case No. 2705 of 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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