

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.44834 of 2025**

Arising Out of PS. Case No.-247 Year-2023 Thana- GHANSHYAMPUR District- Darbhanga

Laxman Nayak @ Lakshman Nayak S/o Ram Chandra Nayak R/o - Pohaddi  
(Pohadi), P.S- Bahera, District - Darbhanga, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Vinay Kumar Mishra, Adv.

For the Opposite Party/s : Mr. Anita Kumari, APP

**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. The Petitioner is apprehending his arrest in connection with Ghanshyampur P.S. Case No. 247 of 2023 dated 06.11.2023 of the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act 2018.

3. As per the prosecution case, total 1334.94 litres of illicit country made liquor was recovered from the truck and 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. Local people disclosed the name of the petitioner. The petitioner is not the owner of the seized vehicles as stated in



para-11 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. The petitioner has seven criminal antecedents in which he is on bail in all cases as stated in para 3 of the bail petition. The co-accused person has already been granted anticipatory bail by this Court vide order dated 23.04.2024 passed in Cr. Misc. No. 29769 of 2024. 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, Darbhanga in connection with Ghanshyampur P.S. Case No. 247 of 2023 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with a 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 are liable to be cancelled.

7. This application stands allowed.

**(Chandra Prakash Singh, J)**

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