

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49835 of 2025

Arising Out of PS. Case No.-223 Year-2019 Thana- DIDARGANJ District- Patna

Upendra Rai @ Upendar Rai S/O Late Ram Naresh Rai R/O Village- Jethuli,
Kachi Dargah, Patna, P.S- Nadi, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravish Mishra, Adv.

For the Opposite Party/s : Mrs. Sharda Kumari, APP

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

ORAL ORDER

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

2. The petitioner is apprehending his arrest in connection with Didarganj Case No. 223 of 2019, dated 21.07.2019 for the offences punishable under Sections 30(a), 36, 41(1) of the Bihar Prohibition and Excise Act.

3. As per prosecution case, total 250 litres of illicit country made liquor was 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 is not named in the FIR. The name of the petitioner has transpired in this case on the basis of confessional statement of the apprehended co-accused person.



The petitioner is the registered owner, who sold the said vehicle to one Rajesh Kumar. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out against the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. It is further submitted that the co-accused person has already been granted anticipatory bail by this Court vide order dated 04.04.2024 passed in Cr. Misc. No. 22617 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 APP 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 City, Patna in connection with Didarganj Case No. 223 of 2019, 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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