

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55653 of 2025

Arising Out of PS. Case No.-82 Year-2025 Thana- Excise P.S. District- Kishanganj

Shahwaz Alam S/o Samir Uddin, R/o Village - Chandwar Milik Ward no. 14,
P.S- Bahadurganj, District – Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brajesh Sahay, Advocate.

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP.

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

2 01-09-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends his arrest in connection with Special Case No.87 of 2025 arising out of Madya Nisedh P.S. Case No.82 of 2025 instituted under Section 30(a), 32(3) of Bihar Prohibition and Excise Act.

3. As per the prosecution case, there is recovery of 25.140 liter illicit liquor from the motorcycle bearing Registration No. BR-37-AH-7383 and the co-accused namely Devesh Lal has been apprehended on the spot.

4. Learned counsel for the petitioner submits that petitioner is innocent and has been implicated in this case being the owner of the motorcycle. He further submits that friend of petitioner, namely, Devesh Lal had taken his motorcycle without his permission who arrested with 25.140 liter illegal liquor kept



on the said motorcycle of the petitioner. Learned counsel submits that petitioner has no concern with the alleged seized liquor. He further submits that petitioner was not present on the spot and no incriminating material has been recovered from his conscious possession. Learned counsel submits that petitioner has no criminal antecedent and he undertakes to cooperate in the investigation and trial.

5. Learned A.P.P. for the State opposes the prayer for anticipatory bail and submits that seized motorcycle was driven by the co-accused Devesh Lal and the explanation that the same was taken without his permission cannot be said to be satisfactory in view of the fact that if the same was taken without his permission, the petitioner had not taken any steps in this regard. Therefore, the petitioner is presumed to be involved in the occurrence and he does not deserve the privilege of anticipatory bail. He further submits that in view of Full Bench decision of this Court rendered in the case of **Ram Vinay Yadav vs. The State of Bihar** reported in **2019(2) P.L.J.R. 1089 (F.B.)** *prima facie* case is made out against the petitioner, therefore, the anticipatory bail is not maintainable.

6. Considering the facts and circumstances of the case and submissions of learned counsel for the parties as well as



failure to offer satisfactory explanation by the petitioner, as stated above, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, his prayer for anticipatory bail is, hereby, rejected.

7. It is clarified that if petitioner surrender before the learned Trial Court and seek regular bail, the same shall be decided on its own merit without prejudice to the rejection of this anticipatory bail of the petitioner.

(Sunil Dutta Mishra, J)

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