

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74338 of 2024

Arising Out of PS. Case No.-776 Year-2024 Thana- MAHUA District- Vaishali

Gulshan Kumar Mishra @ Gulshan Mishra @ Gulshan Kumar S/o Late Paltu
Mishra R/o Village-Chand Sarai, P.S.- Mahua, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pratima Kumari

For the Opposite Party/s : Mr. Dr. Indiwari Kumari

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

ORAL ORDER

2 05-02-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his/her arrest in a case in connection with Mahua P.S. Case No. 776 of 2024 dated 16.08.2024 registered for the offence/s punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 148.875 litres of illicit foreign liquor was recovered from the house of the co-accused Bindeshwar Paswan.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. No incriminating material has been recovered from the conscious possession of the petitioner. The said recovery was



made from the house of the co-accused person. The name of the petitioner has transpired during the course of the investigation. The petitioner has no concern with the alleged recovery. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. 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 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 material available on the record, let the above named petitioner, in the event of his/her 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, Vaishali
at Hajipur in connection with Mahua P.S. Case No. 776 of
2024, subject to conditions as laid down under section 438(2) of
the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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