

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78106 of 2024

Arising Out of PS. Case No.-406 Year-2019 Thana- JAYNAGAR District- Madhubani

Manoj Kumar Mandal S/O Bhogi Mandal Resident of Village- Dulipatti, P.S.-
Jaynagar, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Jha

For the Opposite Party/s : Mr.Mohammed Arif

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

ORAL ORDER

2 07-02-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Jaynagar P.S. Case No. 406 of 2019 corresponding to G.R. NO. 1476/2019 dated 14.08.2019 registered for the offences punishable u/ss 272, 273 read with Section 34 of the Indian Penal Code and 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 246 litres of illicit Nepali country made liquor was recovered from the four motorcycles.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. The petitioner has one criminal antecedent in which he is on bail as stated in para 3 of the bail petition. The name of the petitioner sprung up in this case on the confessional statement of the co-accused Santosh Kumar. The petitioner is not the owner of the said motorcycles. 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, Madhubani in connection with Jaynagar P.S. Case No. 406 of 2019 corresponding to G.R. NO. 1476/2019, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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