

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79003 of 2024

Arising Out of PS. Case No.-564 Year-2024 Thana- Excise P.S. District- Aurangabad

=====

Ankit Kumar Son of Binod Yadav R/O Village- Loharchak, P.S-Kutumba,
District- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Mukul Kumari

For the Opposite Party/s : Mr.Dashrath Mehta

=====

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

ORAL ORDER

2 18-02-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner is apprehending his arrest in connection with G.R. No. 1044 of 2024, arising out of Excise P.S. Case No. 564 of 2024 dated 10.06.2024 registered for the offences punishable under Section 30(a), 32(3), 41(1) and 41(2) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 180 litres of illicit country made liquor was recovered from the two motorcycles driven by the co-accused persons.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is neither the owner nor the driver of



the said seized vehicles. The apprehended co-accused persons disclosed the name of 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. 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, Aurangabad in connection with G.R. No. 1044 of 2024, arising out of Excise P.S. Case No. 564 of 2024, 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)

guddukr/-

U		T	
---	--	---	--

