

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81882 of 2024

Arising Out of PS. Case No.-18 Year-2021 Thana- Excise P.S. District- Madhepura

Arjun Kumar @ Arjun Sah Son of Ashok Sah @ Ashok Kumar Resident of
Village - Jiwachpur, Ward No. 07, P.S. - Madhepura (Bharrahi OP), District -
Madhepura

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amarnath Jha

For the Opposite Party/s : Mr.Manoj Kumar

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

ORAL ORDER

2 20-02-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Excise Case No. 985 of 2021, arising out of Madhepura Excise P.S. Case No. 18 of 2021 dated 25.11.2021 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. As per the prosecution case, total 120 litres of illicit country made liquor and 1000 litres of jaggery solution were recovered from the bamboo clump.

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 as stated in



para 3 of the bail petition. The other co-accused persons have already been granted bail by this court *vide* order dated 20.09.2024 passed in Cr. Misc. No. 51896/2024. 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, Madhepura, in connection with Excise Case No. 985 of 2021, arising out of Madhepura Excise P.S. Case No. 18 of 2021, 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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