

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77439 of 2025

Arising Out of PS. Case No.-71 Year-2024 Thana- KALUAHI District- Madhubani

Raj Kumar Mochi Son of Late Gurav Mochi Resident of Village - Najirpur
Shepahi Tol, P.S.- Rahika, District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Jha, Adv.

For the Opposite Party/s : Mr.Nityanand, APP

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

ORAL ORDER

2 05-12-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Kaluahi P.S. Case No. 71 of 2024 corresponding to G.R. No. 595/2024 dated 20.04.2024 for the offence/s punishable u/ss 272 and 273 read with Section 34 of the IPC and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 80 litres of illicit country liquor was recovered from the E-rickshaw.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the



bail petition. The petitioner is the owner of the seized vehicle but he has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. The co-accused persons have already been granted anticipatory bail by this court vide order dated 20.09.2024 passed in Cr. Misc. No. 50785/2024. 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 Kaluahi P.S. Case No. 71 of 2024 corresponding to G.R. No. 595/2024, subject to conditions as laid down under section 438(2) of the Cr.P.C.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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