

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81680 of 2024

Arising Out of PS. Case No.-126 Year-2024 Thana- DEV District- Aurangabad

Kunwar Yadav @ Kuwar Yadav Son of Ram Baran Yadav Village- Murgada,
Ps- Madanpur, Dist- 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.Sanjay Kumar Sharma

**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 G.R. No. 314 of 2024 arising out of Deo P.S. Case No. 126 of 2024 dated 09.06.2024 registered for the offences punishable u/s 30(a) of Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 159 litres of illicit country made liquor was recovered from the four different motorcycles out of which 14 litres of illicit country made liquor was recovered from the petitioner's motorcycle.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and 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 said vehicle bearing Reg. No. BR-24AD7307 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 against the petitioner. The co-accused person has already been granted regular bail by this court vide order dated 08.08.2024 passed in Cr. Misc. No. 54694 of 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, Aurangabad in connection with G.R. No. 314 of 2024 arising out of Deo P.S. Case No. 126 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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