

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84817 of 2024

Arising Out of PS. Case No.-149 Year-2024 Thana- SIRDALA District- Nawada

=====

BINESH PRASAD YADAV S/o Shivnandan Yadav RESIDENT OF
VILLAGE- DAMARKURTHA (SUKNAGAR), P.S.-SIRDALA, DISTRICT-
NAWADA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Sheo Nandan Prasad, Adv.

For the Opposite Party/s : Mr.Ajay Kumar Jha, APP

=====

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

ORAL ORDER

2 21-02-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in
connection with Sirdalla P.S. Case No. 149 of 2024 dated
14.04.2024 registered for the offences punishable u/s 30(a) of
the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 125 litres of illicit
country-made liquor was recovered from the motorcycle of the
petitioner which was being ridden by the co-accused, Vikku
Kumar.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. No incriminating material has been recovered from the



conscious possession of the petitioner. The petitioner is the owner of the said motorcycle and the same was not being ridden by the petitioner at the time of alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The co-accused has been granted bail by this Court vide order dated 19.06.2024 passed in Cr. Misc. No. 41754 of 2024. Learned counsel has submitted that no case is made out against the petitioner. 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 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 material available on record, 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, Nawada in connection with Sirdalla P.S. Case No. 149 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)

Shivam/-

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

