

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2160 of 2025

Arising Out of PS. Case No.-64 Year-2024 Thana- ANTI District- Gaya

Rajesh Yadav @ Rajesh Kumar Son of Kishori Yadav Resident of Village-
Manglichak, P.S. - Gurua, District -Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Durgesh Nandan, Adv.

For the Opposite Party/s : Mr. Jagdhar Prasad, APP

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

ORAL ORDER

2 28-02-2025 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 Anti P.S. Case No. 64 of 2024 dated 31.07.2024 registered for the offences punishable u/s 317(5) read with Section 3(5) of BNS and Section 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 70 litres of illicit country-made liquor was recovered from the two motorcycles.

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 apprehended co-accused, Dhanesh Yadav disclosed the name of the petitioner.



The petitioner is the owner of one of the said vehicles as stated in para 11 of the bail petition. The petitioner has no concern with the alleged recovery. The petitioner has two criminal antecedents as stated in para 3 of the bail petition. The co-accused has been granted bail by this Court vide order dated 18.09.2024 passed in Cr. Misc. No. 66674 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, Gaya in connection with Anti P.S. Case No. 64 of 2024, subject to conditions as laid down under section 482(2) of the B.N.S.S, with the condition:-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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