

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84692 of 2024

Arising Out of PS. Case No.-122 Year-2023 Thana- JAYNAGAR District- Madhubani

Pandav Yadav Son of Ramashis Yadav Resident of Village - Kuwadh, P.S. -
Jaynagar, District - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Jha

For the Opposite Party/s : Mr.Navin Kumar Pandey

**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 Jaynagar P.S. Case No. 122 of 2023 dated 20.03.2023 for the offence/s punishable u/ss 272, 273, 414 read with section 34 of the IPC and sections 30(a), 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 180 litres of illicit Nepali country made liquor was recovered from three motorcycles which were parked in a mango orchard.

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



possession of the petitioner. The petitioner is not the owner of the said motorcycles as stated in Para-6 of the bail petition. The petitioner has no concern with the alleged recovery. Local Chowkidar disclosed the name of the petitioner. The recovery was made from an open place that was accessible to anyone. The co-accused has already been granted bail by this Court vide order dated 30.08.2024 passed in Cr. Misc. No. 41160 of 2024. The petitioner has three criminal antecedents as stated in para 3 of the bail petition. 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, Madhubani in connection with Jaynagar P.S. Case No. 122 of 2023, 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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