

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.89912 of 2024**

Arising Out of PS. Case No.-99 Year-2023 Thana- BIBHUTIPUR District- Samastipur

Jitendra Kumar S/o Ram Sudin Mahto R/o Village- Singhyia Buzurg, P.S-  
Bibhutipur, Distt.- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Mirityunjay Kumar, Advocate

For the Opposite Party/s : Mr. Kanhaiya Kishore (App.100)

**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 connection with Bibhutipur P.S Case No. 99 of 2023, dated 17.03.2023, for the offences punishable under Sections 272, 273, 420, 467, 468, 471 and 34 of the I.P.C. and under Sections 30(a), 32, 41(1) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 3501 litres of illicit foreign liquor was recovered from a truck, a tempo and Bolero.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The name of the petitioner has transpired on the basis



of confessional statement of the co-accused Raja Kumar. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The other co-accused person has already been granted bail by this court *vide* order dated 25.05.2023, passed in Cr. Misc. No. 34298 of 2023. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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, Samastipur, in connection with Bibhutipur, P.S. Case No. 99 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

**(Chandra Prakash Singh, J)**

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