

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.90001 of 2024

Arising Out of PS. Case No.-77 Year-2024 Thana- KUNDWACHAINPUR District- East
Champaran

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Madhusudan Kumar Son of Uma Shankar Kumar Resident of Village - Lallu
Mahuawa, Police Station - Piprahi, District - Sheohar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rahul Singh, Advocate
For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, A.P.P.

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**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 Kundwa Chainpur P.S Case No. 77 of 2024 dated 03.06.2024, for the offences punishable u/s 30(a), 32 and 41(1) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 780 litres of illicit Nepali Saufi 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. The petitioner is the owner of the said seized vehicle, but at the time of alleged recovery his motorcycle was taken-up by co-accused Santosh Chaudhary. 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 28.08.2024 passed in Cr. Misc. No. 61398 of 2024. 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, East Champaran at Motihari, in connection with Kundwa Chainpur P.S. Case No. 77 of 2024, 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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