

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 861 of 2025

Arising Out of PS. Case No.-767 Year-2023 Thana- TURKAULIYA District- East
Champaran

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Bachchan Sahni Son of Ram Chandar Sahni Resident of Village- Jhakhiya,
P.S.- Banjariya, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Dhurendra Kumar, Advocate Mr. Sumit Kumar, Advocate Mr. Sudhanshu Kumar, Advocate
For the Opposite Party/s	:	Mr. Akbar Ali, 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 Turkauliya (Banjariya) P.S Case No. 767 of 2023, dated 07.07.2023, for the offences punishable u/s 30(a) and 41(1) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 160 litres of illicit country-made liquor was recovered from the bank of river Jhakhiya Majhariya Man.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The recovery is made from an open place which is



accessible to everyone. The petitioner has eight criminal antecedents as stated in para 3 of the bail petition. 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, Motihari, East Champaran, in connection with Turkauliya (Banjariya) P.S. Case No. 767 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further 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 bond of the petitioner is liable to be cancelled.

(ii) If the petitioner is found involved in similar nature of offence in the future, the prosecution will be at liberty to mover for cancellation of his bail bonds.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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