

**In the Court of Addl. Sessions Judge-II
-cum-
Special Judge, Excise Act, Madhubani
A.B.P. No. 2429/2022**

ORDER

13.02.2023

Anticipatory bail petition has been filed on behalf of the petitioner **Vinod Chaupal** who apprehend his arrest in connection with **G.R. No. 2132/22** arising out of **Rahika P.S. Case No. 244/2022** under Section 272 & 273 of the IPC and 30(a) of Bihar Prohibition and Excise Act is pressed today.

The learned counsel for the petitioner has submitted that the petitioner is quite innocent and has committed no offence. He has been falsely implicated in this case. No other bail petition has been filed on behalf of petitioner in any Court. That the petitioner has got no criminal antecedent. That nothing incriminating has been recovered from the conscious possession of the petitioner. That the petitioner never deal with wine. Learned counsel for the petitioner has further submitted that several direction has been given to the Learned S.P.P. to produce the C.D., despite that no C.D. is available on the record today. Hence, prayed to dispose of his bail petition without case diary.

The learned special P.P. has opposed the bail petition on the ground that anticipatory bail under Excise Act is not maintainable.

Heard, both the parties and perused the case record. As per Section 76(2) of the Bihar Prohibition and Excise Act, the anticipatory bail petition is not maintainable. The Full Bench of Hon'ble High Court in **Ram Vinay Yadav vs. State of Bihar** has held that *“an application for anticipatory bail in a case arising out of Bihar Prohibition and Excise Act can be maintained despite 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”*. In this case it is evident from the FIR and seizure list available on the record that on the basis of information police raided the shop of the petitioner where on seeing police party, he escaped away and on search total 6.3 ltr of illicit liquor has been recovered from his shop.

Considering the above facts and circumstances, this anticipatory bail application is not maintainable and stands **rejected**.

Dictated

Addl. Sessions Judge-II-cum-
Special Judge(Excise Act)