

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.14726 of 2019**

Arising Out of PS. Case No.-81 Year-2018 Thana- PAKRIDAYAL District- East Champaran

RAM PUKAR MUKHIYA @ PUKAR MUKHIYA Son of Prem Mukhiya,  
Resident of Village-Sesahani, P.S.-Pakaridayal, District-East Champaran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Shakil Ahmad Khan

For the Opposite Party/s : Mr.Nityanand

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

4      08-07-2019                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

This application for grant of anticipatory bail arises out of Pakridayal Police Station Case No. 81 of 2018, disclosing offence under Sections 272/273 of the Indian Penal Code and Sections 30, 34, 38 of Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act').

The allegation against the petitioner is that when the police raided the house of the petitioner, the police recovered 3 litres of illicit liquor.

Learned Counsel for the petitioner submits that the petitioner has got no criminal antecedent and a small quantity, i.e. 03 litres of illicit liquor, has been recovered from the house of the petitioner, as such he may be released on anticipatory



bail.

After having heard learned Counsel for the parties concerned and taking into consideration the fact that the Full Bench of this Court, in **Criminal Appeal (S.J.) No. 431 of 2019 (Ram Vinay Yadav v. The State of Bihar)**, has held that if upon going through the First Information Report, a *prima facie* case under the provisions of the Act is made out, then anticipatory bail application is not maintainable. The High Court can consider an application for grant of anticipatory bail only on the basis of the fact that upon reading of the First Information Report, or the complaint, no *prima facie* case is made out against the petitioner(s), otherwise it has got no jurisdiction to entertain anticipatory bail application.

Taking into consideration the fact that from the house of the petitioner, 03 litres of illicit liquor was recovered and from perusal of the First Information Report, a *prima facie* case is made out against the petitioner under the provisions of the Act, this application is not maintainable and is, accordingly, dismissed.

However, considering the small quantity of illicit liquor recovered from the house of the petitioner, it is directed that if the petitioner surrenders before the Court below within



four weeks from today and applies for regular bail, his application shall be considered and decided on the same day, without being prejudiced by the present order of dismissal.

**(Anil Kumar Sinha, J.)**

Prabhakar Anand/-

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