

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83398 of 2019

Arising Out of PS. Case No.-292 Year-2019 Thana- SITAMARHI District- Sitamarhi

KAJU KUMAR @ SUNNY KUMAR SRIVASTAV @ SUNNY KUMAR,
S/o Mohan Prasad, Resident of Village- Mahsaal Bhim Singh Gali, Ward
No.24, P.S.- Sitamarhi, Distt- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Adv.

For the Opposite Party/s : Mr. Uday Chand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 17-12-2019 Heard learned counsel for the petitioner as well as learned
Additional Public Prosecutor.

2. There happens to be finding of the Full Bench in the
case of **Ram Vinay Yadav vs. The State of Bihar** reported in **2019**
(2) PLJR 1089 that whenever there happens to be presence of prima-
facie case then, in that circumstance there would not be
maintainability of the anticipatory bail under the Bihar Prohibition
and Excise Act.

3. Learned counsel for the petitioner has submitted that
other Benches are granting bail in similar facet which the present
controversy deals with. It has further been submitted that on getting
confidential information a raid was conducted by the side of Athri
Niwas from where a person fled after seeing the police regarding
whom, the local inhabitants disclosed to be the petitioner, Kaju
Kumar. Furthermore, on search 35.40 litres of Indian origin foreign
liquor of different brands have been seized. Therefore, irrespective of



recovery of Indian origin foreign wine, mere claim of the informant would not justify the involvement of the petitioner and so, the petitioner should be released on anticipatory bail.

4. The learned Additional Public Prosecutor opposed the same and submitted that in terms of the principles laid down by the Full Bench in **Ram Vinay Yadav** (supra) the instant petition for anticipatory bail would not be maintainable.

5. From the written report filed by the informant Raza Ahmad, S.I., Mehsaul O.P., after having been confidentially informed regarding involvement of the petitioner in sale of foreign liquor after having its storage in a bush by the side of Athri Niwas, near Rama hotel, a raid was conducted and during course thereof, it has been submitted that one person managed to flee who was identified as the petitioner. Furthermore, 35.40 litres of foreign wine have been seized therefrom. This could be a good ground for consideration of regular bail which the learned lower court will consider at the time of prayer for bail, if so made on behalf of the petitioner.

In terms thereof, the instant petition for anticipatory bail is dismissed.

(Aditya Kumar Trivedi, J)

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