

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62458 of 2022**

Arising Out of PS. Case No.-50 Year-2022 Thana- JIRADEI District- Siwan

SANJAY PRASAD S/O Bikarma Prasad R/O Village- Jamapur, P.S-Jiradei,
District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

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

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

2 02-12-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Let the defects, as pointed out by the office, be
removed within a period of four weeks from today.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Section 30(a) of
Bihar Prohibition and Excise Act, 2016.

Recovery is of total 17 liters of country made liquor.

Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that the
recovery has been made from room in question and not from
petitioner's possession. Therefore, the recovery cannot be
attributed to the petitioner. He further submits that the room in



question is belong to one Sunil Prasad and not petitioner. He further submits that petitioner has no concern at all with the alleged recovery of illicit liquor or the room in question. No case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act. He further submits that similarly situated co-accused namely, Chanda Devi who is wife of petitioner has been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 21.09.2022 passed in Cr. Misc. No. 57281 of 2022.

The learned Additional Public Prosecutor has vehemently opposed the prayer for anticipatory bail of the petitioner referring the provision contained in Section 76(2) of the Bihar Prohibition and Excise Act and submitted that the pre-arrest bail would not be maintainable.

This court is aware of the decision of the Full Bench in the case or **Ram Vinay Yadav Vs. State of Bihar** reported in **2019(2) P.L.J.R. 1089**. Having regard to the law laid down in the aforesaid judgment and the submission advanced on behalf of the parties, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submission of counsel for the petitioner.

Considering the aforesaid facts and circumstances,



nothing has been recovered from conscious possession of the petitioner, let the petitioner, above named, in the event of his arrest or surrender within a period of four weeks from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Jiradei P.S. Case No. 50 of 2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. and also the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the



petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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