

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29128 of 2022

Arising Out of PS. Case No.-221 Year-2020 Thana- KHANPURA District- Samastipur

Rambabu Ray@ Ram Babu Roy Son Of Jinis Lal Ray Resident Of Village-
Krishnwara , Hasansarai , P.S- Patepur, Dist- Vaishali At Present Resident Of
Mohalla- Airport More , Gowala Basti Dumriguri , Uttar Bagdogra, P.S-
Bagdogra , Dist- Darjeeling State- West Bengal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mahendra Pratap, Advocate

For the Opposite Party/s : Mr. Sharda Kumari, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

4 24-01-2023 Learned counsel for the petitioner is permitted to

remove the defect(s), as pointed out by the office, if any, within

a period of three weeks from today.

Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State through virtual court

proceeding.

The Petitioner is apprehending his arrest in a case

registered for the offences punishable u/s 272 and 273 of the

Indian Penal Code and 30(a) of the Bihar Prohibition and Excise

Act.

As per the prosecution case, total 1292.250 litres of

illicit liquor was recovered from the Tata S.F.C. 407, bearing



Registration No. WB-73B-4458 while the said liquor was being unloaded by co-accused Guru Deo Paswan who fled away.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. No incriminating material has been recovered from the possession of the petitioner. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. 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 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.

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.

Considering the aforesaid facts and circumstances of the case as well as the material available on record, 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, Samastipur in connection with Khanpur P.S. Case No. 493 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

The application stands allowed.

(Chandra Prakash Singh, J)

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