

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33738 of 2023

Arising Out of PS. Case No.-260 Year-2022 Thana- PAKRIDAYAL District- East Champaran

SANJAY RAI @ SANJAY KUMAR, Son of Surjdeo Rai, Resident of
Village- Harnathpur, P.S.- Pakaridayal, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar, Advocate

For the Opposite Party/s : Mr.Navin Kumar Pandey, APP

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

ORAL ORDER

2 24-06-2023 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.

The petitioner is apprehending his arrest in connection
with Pakaridayal P.S. Case No. 260 of 2022 dated 17.10.2022
registered for the offences punishable u/ss 272, 273 read with
Section 34 of the Indian Penal Code and u/s 30 (a) of the Bihar
Prohibition and Excise Act.

As per the prosecution case, total 465.525 illicit
foreign liquor was recovered beside the government school and
the paddy field.



Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner hence, no case is made out against the petitioner. He has further submitted that the said paddy field does not belong to the petitioner rather Bihari Sah is the owner of the said paddy field. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. 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 reported in 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 nature of allegation against the petitioner, let the above named petitioner, in the event of his



arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Motihari, East Champaran in connection with Pakaridayal P.S. Case No. 260 of 2022, subject to conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

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