

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 34323 of 2023**

Arising Out of PS. Case No.-99 Year-2023 Thana- SIMRI District- Buxar

NAVRATAN RAI @ NAVRATNA RAI Son of Vijay Rai R/O Vill.- Arjunpur,
P.S.- Simari (Dera O.P.), Dist.- Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Dr Kamal Deo Sharma, Advocate
For the Opposite Party/s : Mr Binod Kumar, APP

CORAM: HONOURABLE MR JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 **24-06-2023** Heard learned counsel for the petitioner and learned
Additional Public Prosecutor (for brevity, **APP**) appearing for
the State of Bihar.

The petitioner is apprehending his arrest in connection
with Simari (Dera OP) Police Station (for brevity, **PS**) Case No
99 of 2023 dated 26.03.2023 registered for the offences
punishable under Section 30 (a) of the Bihar Prohibition and
Excise Act.

As per the prosecution case, 22.5 litres of illicit
foreign liquor was recovered near the boring of the co-accused
Dhamaka Rai which was thrown.

Learned counsel for the petitioner has submitted that
the petitioner has falsely been implicated in this case. The



villagers have disclosed the name of the petitioner. It is further submitted that the petitioner has two antecedents, as stated at paragraph 3 of the bail petition in which he is on bail. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. Learned counsel has relied on the judgment of Full Bench of of this Court in the case of ***Ram Vinay Yadav -Versus- 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 the Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the First Information Report, no offence under the said provision is made out.

Learned APP appearing for the State of Bihar 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 anticipatory bail on his furnishing bonds of Rs



20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of Exclusive Special Judge, Excise Court No II, Buxar in Simari (Dera OP) PS Case No 99 of 2023, subject to all conditions as laid down under Section 438 (2) of Criminal Procedure Code.

(Chandra Prakash Singh, J)

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