

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33850 of 2023

Arising Out of PS. Case No.-798 Year-2022 Thana- KRITYANAND NAGAR District-
Purnia

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Banti Yadav, Son of Vidyanand Yadav, Resident of Village- Masuria, Ward
No18,Ps Sardi ,DISTRIC Purnia

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Pandey,Advocate
For the Opposite Party/s : Mr.Mithlesh Kumar Khare, APP

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**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 K. Nagar (Srinagar) P.S. Case No. 798 of 2022 dated

30.12.2022 registered for the offences punishable u/s 30 (a) of

the Bihar Prohibition and Excise Act.

As per the prosecution case, 48.15 litres of illicit

liquor was recovered from the co-accused Rajesh Paswan who

was apprehended from the spot. He disclosed that they used to

bring wine from the vehicle of the petitioner.



Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The name of the petitioner has sprung up in the confessional statement of the co-accused person. He has further submitted that the petitioner was not present at the time of recovery of the said liquor. Nothing has been recovered from the conscious possession of the petitioner hence, no case is made out against the petitioner. The petitioner is accused in two other criminal cases 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, Purnea in connection with K. Nagar (Sri Nagar) P.S. Case No. 798 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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