

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33938 of 2023**

Arising Out of PS. Case No.-42 Year-2023 Thana- AGIAON District- Bhojpur

CHANDAN KUMAR YADAV S/O BIRENDRA YADAV @ BIRENDRA
SINGH R/O Village- Mandura, P.S- Agion Garhani, Distt.- Bhojpur at Ara.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shashank Shekhar, Adv.

For the Opposite Party/s : Mr.Khurshid Anwar, 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 a case in connection with Agion (Garhani) P.S. Case No. 42 of 2023 dated 13.3.2023 registered for the offences punishable under sections 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 100 litres of Mahua liquor was recovered beneath of the water tank.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing



incriminating material has been recovered from the conscious possession of the petitioner. Hence no case is made out. Recovery was made beneath of the water tank. The petitioner has no concern with the said recovery. The name of the petitioner was disclosed by the co-accused Pramod Singh in this case. The petitioner has clean 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, 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 learned Court concerned, Bhojpur at Ara in connection with Agion (Garhani) P.S. Case No. 42 of 2023, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

Ajay Singh/-

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