

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33912 of 2023

Arising Out of PS. Case No.-110 Year-2022 Thana- SITAMARHI District- Sitamarhi

SUBODH KUMAR Son of Santosh Ray R/o village - Dostpur, P.S.-
Bathnaha, Dist.- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar

For the Opposite Party/s : Mr.Akbar Ali

**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 Sitamarhi P.S. Case No. 110 of 2022 dated
14.2.2022 registered for the offences punishable under sections
30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 1259.82 litres of
foreign liquor was recovered from the garage of co-accused
Laxmi Mahto.

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. The name of the petitioner was surfaced on the basis of disclosure of the co-accused Amitesh Kumar. The petitioner is also accused in five other criminal cases in which he is on bail in four 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, 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, Sitamarhi in connection with Sitamarhi P.S. Case No. 110 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)

Ajay Singh/-

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