

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33870 of 2023**

Arising Out of PS. Case No.-251 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Vaishali

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RAJ VINAY RAY S/O RAMLAL RAY R/o Village-Hathsarganj, Ward No.1,
P.S.-Nagar, District-Vaishali

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Jain
For the Opposite Party/s : Mr.Md. Anbzarul Haque Sahara

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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 a case in

connection with C2A No. 252 of 2021 registered for the

offences punishable under sections 30(a), 32(b) 32(a) of the

Bihar Prohibition and Excise Act.

As per the prosecution case, total 300 litres of

country made liquor was recovered from the 'kelwani' of the

petitioner and the co-accused persons.

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 recovery is from an open place. The petitioner is also accused in one more criminal case in which he is on bail 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, Hajipur, Vaishali in connection with C2A No. 252 of 2021, 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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