

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33937 of 2023

Arising Out of PS. Case No.-707 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Sitamarhi

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RANJAN KUMAR @ RANJAN SAH @ NAKCHATARA S/O MADAN KISHOR S/O Madan Kishor (in the F.I.R wrong mentioned as Lili Sah), R/O Village- Mirchaipatti, Ward No. 10, P.S- Sitamarhi, Distt.- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pushpendra Kumar Singh, Adv.

For the Opposite Party/s : Mr.Bishweshwar Ram, 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 a case in connection with Sitamarhi Excise Case No. 707 of 2022 dated 20.12.2022 registered for the offences punishable under sections 30(a), 32(3) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 149.76. litres of foreign liquor was recovered from an under-construction house near Fulmata Mata Mandir and apprehended persons disclosed



their names as Dharmendra Kumar and Shashi Raj and also disclosed the name of the petitioner who fled away from the place of occurrence.

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 said recovery was made from an open place. The petitioner has no concern with the said recovery. The name of the petitioner has been disclosed by the co-accused persons. The petitioner is also accused in two other criminal antecedents 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, Sitamarhi in connection with Sitamarhi Excise Case No. 707 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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