

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 34211 of 2023**

Arising Out of PS. Case No.-492 Year-2022 Thana- BEUR District- Patna

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AJAY KUMAR @ DIRHA @ AJAY RAY Son of Late Shiv Jatan Ray
Resident of Village- Harnichak, Basisth Colony, PS-Phulwarishariff, PO-
Anishabad, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Jogendra Kumar, Advocate

For the Opposite Party/s : Mr Kanhaiya Kishore, APP

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CORAM: HONOURABLE MR JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 24-06-2023

Heard learned counsel for the petitioner and learned
Additional Public Prosecutor (for brevity, **APP**) appearing for
the State of Bihar.

The petitioner is apprehending his arrest in connection
with Special Case No 6427 of 2022 arising out of Beur Police
Station (for brevity, **PS**) Case No 492 of 2022 dated 01.10.2022
registered for the offences punishable under Section 30 (a) of
the Bihar Prohibition and Excise Act.

As per the prosecution case, 30 litres of illicit country
made **Mahua** liquor was recovered from the bag which was kept
in open place near Harnichak Government School.

Learned counsel for the petitioner has submitted that
the petitioner has falsely been implicated in this case. The



villagers have disclosed the name of the petitioner. It is further submitted that the petitioner has no antecedent, as stated at paragraph 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. Learned counsel has relied on the judgment of Full Bench of of this Court in the case of ***Ram Vinay Yadav -Versus- 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 the Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the First Information Report, no offence under the said provision is made out.

Learned APP appearing for the State of Bihar 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 anticipatory bail on his furnishing bonds of Rs



20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of Special Judge, Excise Act, Patna in Special Case No 6427 of 2022 arising out of Beur PS Case No 492 of 2022, subject to all conditions as laid down under Section 438 (2) of Criminal Procedure Code.

(Chandra Prakash Singh, J)

M.E.H./-

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