

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35128 of 2022

Arising Out of PS. Case No.-147 Year-2021 Thana- SAKRA District- Muzaffarpur

VIKASH KUMAR S/O MAHENDRA MAHTO Resident of Village-
Korigama, P.S.- Sakra, District- Muzaffarpur. Petitioner/s
Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Advocate

For the Opposite Party/s : Mr. Tarkeshwar Nath Thakur, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 17-02-2023 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 registered for the offences punishable u/s 414 of the Indian Penal Code and 30(a), 34, 33, 35, 36 of the Bihar Prohibition and Excise Act.

As per the prosecution case, the petitioner and the co-accused persons are involved in preparation of illegal country made liquor and foreign liquor. Thirty pieces of pouch of country made liquor and the other articles were recovered from the house of the co-accused Manoj Paswan and 10 pieces of pouch country made liquor was also recovered from a



motorcycle. On being asked, Prity Devi disclosed the name of the petitioner who used to manufacture the country made and foreign liquor.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing has been recovered from the possession of the petitioner. The name of the petitioner has surfaced on the basis of disclosure of the wife of the co-accused Prity Devi. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. Learned counsel has submitted that no case is made out against the petitioner. 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 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 material available on record, 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 the learned court concerned, Muzaffarpur in connection with Sakra P.S. Case No. 147 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with a condition:-

1. The court below shall verify the criminal antecedent of the petitioner and at any stage, if it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Chandra Prakash Singh, J)

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