

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48726 of 2022

Arising Out of PS. Case No.-207 Year-2016 Thana- AMNAUR District- Saran

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Pankaj Shukla @ Pankaj Kumar Shukla S/O Suresh Shukla Resident Of
Village- Jalalpur, P.S.- Vaishali, District- Vaishali.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Anirudh Kumar Sinha, Advocate
For the Opposite Party/s : Mrs.Sharda Kumri, A.P.P

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

4 04-02-2023 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 272, 273, 420,120B

and 201 of the Indian Penal Code and Section 30(a), 38 and 41

of the Excise Act.

As per the prosecution case, total 3,618 liters of

country made foreign liquor was recovered.

Learned counsel for the petitioner has submitted that

the petitioner has falsely been implicated in this case. The

petitioner is accused in 8 other criminal cases which are related



to Excise Act as stated in para 3 of the bail petition. Nothing has been recovered from the possession of the petitioner. The petitioner is not named in the F.I.R. The name of the petitioner has sprung up in the confessional statement of co-accused Tapes Kumar Tiwary. The other co-accused person has already been granted bail by the Co-ordinate Bench *vide* order dated 22.11.2022 passed in Cr. Misc. No. 45222 of 2022. 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 against the 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, Chapra at Saran in connection with Amnaur P.S. Case No. 207 of 2016, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further conditions:-

1. The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, .

2. If the petitioner is found involved in similar nature of offence in future, the prosecution will be at liberty to move for cancellation of his bail bond.

3.The court below shall verify the criminal antecedent of the petitioner and in case at any stage, 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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