

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72043 of 2022

Arising Out of PS. Case No.-151 Year-2022 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

=====

LAL BABU RAI @ LALO Son of Late Ram Shrest Rai R/v- Gangapur, P.S.-
Waini OP Pusa, District- Samastipur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rohit Raj, Advocate
		Mr. Ranjan Kumar, Advocate
For the Opposite Party/s :		Mr. Parmanand Prasad, APP

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 25-02-2023 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 30(a), 41(i) and 41(ii) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 1659.780 litres of illicit liquor was recovered from the truck and one pickup Vehicle.

Learned counsel for the petitioner has submitted that



the petitioner has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. The name of the petitioner has transpired on the disclosure of the co-accused. Similarly situated co-accused has already been granted bail by the co-ordinate bench *vide* order dated 21.11.2022 passed in Cr. Misc. No. 52552 of 2022. The petitioner is also accused in four criminal cases which are related to excise act as stated in 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, Samastipur in connection with Samastipur (Muffasil) P.S. Case No. 151 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

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, the bail bond of the petitioner is liable to be cancelled.

The application stands allowed.

(Chandra Prakash Singh, J)

guddukr/-

U		T	
---	--	---	--

