

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68013 of 2022**

Arising Out of PS. Case No.-379 Year-2022 Thana- DUMRA District- Sitamarhi

DEEPAK KUMAR SON OF RAJU SAH @ RAJU CHAUDHARY R/O
VILLAGE- PREMNAGAR, P.S.- RUNNISAIDPUR, DISTRICT-
SITAMARHI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Md. Shakir Ahmad, 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 u/s 414 of the Indian
Penal Code and 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 2097.78 litres of
illicit foreign liquor was recovered from the different vehicles.

Learned counsel for the petitioner has submitted that
the petitioner has falsely been implicated in this case. The name
of the petitioner has transpired on the disclosure of the



apprehended co-accused. The petitioner has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner. The petitioner is also accused in three 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, Sitamarhi in connection with Dumra P.S. Case No. 379 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

The application stands allowed.

(Chandra Prakash Singh, J)

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