

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.68713 of 2022**

Arising Out of PS. Case No.-992 Year-2021 Thana- SASARAM NAGAR District- Rohtas

RAKESH KUMAR @ VIDESHI SONKAR Son of Late Chhotelal Sonkal  
Resident of Mohalla- Dalelganj, P.S- Sasaram Nagar, Dist- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Manoj Kumar Singh, Advocate

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, APP

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

ORAL ORDER

2      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 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 163 litres of illicit liquor was recovered from the pond full of dirty water and hyacinth.

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



counsel has further submitted that the said liquor does not belong to the petitioner and has no concern with the alleged recovery. The said pond is an open place which is easily accessible to anyone. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no criminal antecedent 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, Rohtas at Sasaram in connection with Sasaram Nagar P.S. Case No. 992 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with following 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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