

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75333 of 2023

Arising Out of PS. Case No.-385 Year-2023 Thana- BARAUNI District- Begusarai

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SANJU @ SURAJ KUMAR SON OF DINESH MAHTO R/O THAKURI
CHAK, WARD NO. 4, P.S.- BARAUNI, DISTRICT-BEGUSARAI

... .. Petitioner/s

Versus

THE STATE OF BIHAR PATNA

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Md Fazle Karim, Adv.

For the Opposite Party/s : Mr.Gauri Shankar Gupta, APP

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

ORAL ORDER

2 11-12-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Barauni P.S. Case No. 385 of 2023 dated 30.07.2023 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 26.340 litres of foreign liquor kept in sacks loaded on two motorcycles were recovered from the mango orchard of the accused Shankar Singh.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The name of the petitioner was disclosed in this case by local



chowkidar. The petitioner has one criminal antecedent as stated at para 3 of the bail petition. The petitioner is not the owner of the said motorcycle and the petitioner has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. 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.

5. 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.

6. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioner, 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, Begusarai in connection with Barauni (Garahra) P.S. Case No. 385 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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