

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70026 of 2022

Arising Out of PS. Case No.-309 Year-2022 Thana- MALSALAMI District- Patna

Balram Ray @ Baliram Ray, Son of Late Parmanand Ray Resident of Pathar
Ke Ghat, P.S- Malsalami, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

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

ORAL ORDER

2 10-02-2023 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 through virtual court
proceeding.

The petitioner is apprehending his arrest in a case
registered for the offences punishable u/s 30(a) and 36 of the
Bihar Prohibition and Excise Act.

As per the prosecution case, 13 litres country made
mahua liquor was recovered from the buckets of the co-accused
person and the petitioner. The petitioner fled away after
throwing the bucket. The co-accused Rampravesh Roy was



apprehended by the police who disclosed the name of the petitioner as Balram Ray.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The name of the petitioner surfaced in this case on the disclosure made by the co-accused person Rampravesh Roy. Nothing has been recovered from the 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 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, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Patna City (Patna) in connection with Malsalami P.S. Case No. 309 of 2022, subject to conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

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