

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71963 of 2022

Arising Out of PS. Case No.-539 Year-2022 Thana- LAHERIYASARAI District- Darbhanga

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RUKESH KUMAR Son of Umesh Sah Resident of Village - Gudari Bazar,
P.S.- L. Sarai, District - Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Atul Shankar

For the Opposite Party/s : Mr.Sanjay Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 13-01-2023 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 Special Public Prosecutor for the State through video-conferencing.

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, 20.25 litres English wine was recovered from the canteen and the co-accused Vicky Kumar and Suresh Mandal were apprehended by the police who were standing in the kitchen of the said canteen.

Learned counsel for the petitioner has submitted that



the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. The name of the petitioner has sprung up on the basis of confession of co-accused. Nothing has been recovered from the possession of the petitioner. 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 S.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 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, Dharbhanga in connection with Laheriasarai P.S. Case No. 539 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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