

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71948 of 2022

Arising Out of PS. Case No.-238 Year-2022 Thana- SARAI District- Vaishali

SAKET KUMAR @ BITTU S/O SANJAY SHAH Resident of village-
Enayatpur, Probodhi, P.S.- Sarai, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amresh Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Parmanand Kumar, S.P.P.

**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 272 and 273 of the
Indian Penal Code and 30(a) of the Bihar Prohibition and Excise
Act.

As per the prosecution case, On secret information,
the police raided the mango orchard of the co-accused Vijay
Prasad and 129.6 litres of English wine was recovered. One



person Ranjit Kumar was apprehended by the police and one person managed to flee away whose name was disclosed by Ranjit Kumar as this petitioner Saket Kumar @ Bittu.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing has been recovered from the possession of the petitioner. Learned Counsel has further submitted that the said orchard does not belong to the petitioner. The petitioner has no criminal antecedent as stated at 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 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 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, Hajipur at Vaishali in connection with Sarai P.S. Case No. 238 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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