

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70007 of 2022

Arising Out of PS. Case No.-679 Year-2021 Thana- SARAIYA District- Muzaffarpur

PAPPU RAI @ PAPPU KUMAR Son of Sri Bhagwan Lal Ray Resident of
Village- Kailapatti, P.S.- Saraiya, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Akbar Ali, A.P.P

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

ORAL ORDER

3 09-02-2023 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 273, 272 and 420 read
with 34 of the Indian Penal Code and Sections 30(a), 32(2), 36
and 41(i) of the Bihar Prohibition and Excise Act.

As per the prosecution case, on seeing the police,
some miscreants sitting in the truck fled away by taking
advantage of darkness. On search, 3458.880 liters of illicit
foreign liquor was recovered from the said truck.



Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is accused in three other criminal cases which are related to Excise Act as stated at para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioner. No case is made out against the petitioner. The petitioner is neither the driver nor the owner of the truck. 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, 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, Muzaffarpur in connection with Saraiya P.S. Case No. 679 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure

(Chandra Prakash Singh, J)

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