

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71433 of 2022**

Arising Out of PS. Case No.-137 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Madhubani

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LILAMBAR PASWAN @ NILAMBAR PASWAN SON OF SUKHARI
PASWAN R/O VILL.- BELMOHAN, P.S.- PHULPARAS, DISTT.-
MADHUBANI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lakshmindra Kumar Yadav, Advocate
For the Opposite Party/s : Mr. Shyam Bihari Singh, APP

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

ORAL ORDER

2 20-01-2023 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.

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

As per the prosecution case, on the basis of
information, the police raided the house of the petitioner from
where the petitioner fled away taking advantage of darkness. On
search, total 8 litres country made liquor was recovered from his
house.

Learned counsel for the petitioner has submitted that
the petitioner has falsely been implicated in this case. The



petitioner is accused in one more criminal case as stated in para 3 of the bail petition. 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, the prayer of anticipatory bail is disposed off with a direction to the petitioner to surrender before the court below within six weeks from today and pray for regular bail which shall be consider by the learned court below without being prejudiced by this order.

(Chandra Prakash Singh, J)

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