

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72900 of 2022

Arising Out of PS. Case No.-111 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Rohtas

Radhey Shyam Vind, Son of Late Shiv Murat Vind, Resident of Village -
Raypur Chor, P.S.- Sheosagar Baddi (O.P.) , District - Rohtas.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Uma Shankar Singh, Advocate
For the Opposite Party/s : Mr.Ajay Kumar No. 2. APP

**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
Additional Public Prosecutor for the State through virtual court
proceeding.

The petitioner is apprehending his/her 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, on secret information, a
raid was conducted. On seeing the police, a person started
fleeing away but he managed to escape from there. Total 17.280
litres of country made liquor was recovered from a bag which



was kept in the said room of the petitioner and there is no door in the said room.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. He has further submitted that the alleged recovery has been made from a room in which there is no door. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. Nothing has been recovered from the conscious 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 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, Rohtas, Sasaram in connection with Rohtas, Sasaram Excise P.S. Case No. 155 of 2022 arising out of Excise Case No. 111 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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