

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77246 of 2023

Arising Out of PS. Case No.-649 Year-2022 Thana- BIDUPUR District- Vaishali

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Sitaram Singh Son Of Milan Singh Resident Of Village- Pakauli Ward No. 8
PS- Bidupur, Distt- Vaishali at Hajipur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar, Advocate

For the Opposite Party/s : Mr. Nitya Nand Tiwary, A.P.P.

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

ORAL ORDER

2 20-12-2023 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.

2. Heard learned counsel for the petitioner and

learned Additional Public Prosecutor for the State.

3. The Petitioner is apprehending his arrest in

connection with Bidupur P.S Case No. 649 of 2022 dated

05.12.2022 for the offences punishable u/s 147, 148, 149,

341, 323, 337, 338, 307, 353, 354B, 504, 506 of the Indian

Penal Code and 30(c) of the Bihar Prohibition and Excise

Act.

4. As per the prosecution case, total 750 kg of low



quality jaggery used for manufacturing liquor was recovered from the godown of the accused persons including the petitioner. It has been further alleged that the petitioner and the other accused persons threw bricks and stones on police team leaving some of the police personnel injured and caused hindrance in the discharge of the official duty.

5. 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. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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.



6. 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.

7. 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, Vaishali at Hajipur in connection with Bidupur P.S Case No. 649 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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