

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71941 of 2022

Arising Out of PS. Case No.-560 Year-2022 Thana- RAJIVNAGAR District- Patna

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DHANANJAY KUMAR Son of Yogendra Ray Resident of Village- Nakta
Diyara, P.S.- Digha, District- Patna (Bihar)

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Kumar

For the Opposite Party/s : Mr.Rajesh Kumar

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**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 30(a) of the Bihar

Prohibition and Excise Act.

As per the prosecution case, 14.4 litres of foreign

liquor was recovered from the newly constructed septic tank of

the toilet of the house of the co-accused Anish Yadav which was

kept by the petitioner for the purpose of sale.



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 submitted that the alleged recovery has been made from the house of the co-accused. The name of the petitioner has been dragged in this case on mere suspicion. The petitioner is accused in two other criminal cases which are not related to Excise Act, as stated in 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, Patna in connection with Rajivnagar P.S. Case No. 560 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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