

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72652 of 2022**

Arising Out of PS. Case No.-211 Year-2022 Thana- GOPALGANJ TOWN District-
Gopalganj

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Rajan Sah @ Rajan Kumar Son of Ramprit Sah @ Ramprit Sah Gond R/v-
Ekderawa Mauze, P.S.- Gopalganj, District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Naresh Prasad, Advocate.

For the Opposite Party/s : Mr. Arvind Kumar Pandey (App 84)

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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

Additional Public Prosecutor for the State through video

conferencing.

The petitioner is apprehending his arrest in connection

with Gopalganj Town P. S. Case No. 211 of 2022 registered for

the offences punishable under Sections 30(a) and 41(1) of the

Bihar Prohibition and Excise Act.

As per the prosecution case, the police, on a secret

information, reached the place of occurrence and apprehended

two persons with a bag. On search, total 6.275 litre illicit liquor



was recovered from the said bag.

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. The name of the petitioner has transpired on the basis of confessional statement of co-accused persons. On account of village politics, the name of the petitioner has been dragged in the present case. The petitioner has got no criminal antecedent 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 APP 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, 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-bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Court concerned, Gopalganj in connection with Gopalganj Town P. S. Case No. 211 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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