

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72884 of 2022

Arising Out of PS. Case No.-440 Year-2022 Thana- KRITYANAND NAGAR District-
Purnia

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Birendra Ray, Son Of Late Sitaram Ray, R/O Village- Champanagar, Ward
No.13, P.S.- K. Nagar, (CHAMPANAGAR), District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rabindra Kumar Priyadarshi, Advocate
For the Opposite Party/s : Mr.Upendra Kumar, 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

Additional Public Prosecutor for the State through virtual court

proceeding.

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, on seeing the police, a

person started fleeing away. The local *Chowkidar* disclosed the

name of the petitioner as Birendra Ray who fled away from the

spot. Total 10 litres country made liquor was recovered from the



kitchen of the hut made of straw.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is accused in one more case as stated in para 2 of the supplementary affidavit filed on behalf of the petitioner. Nothing has been recovered from the possession of the petitioner and the kitchen of the petitioner has no door. 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, Purnea in connection with K. Nagar (Champanagar) P.S. Case No. 440 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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