

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.73176 of 2022**

Arising Out of PS. Case No.-136 Year-2022 Thana- NARALI KALA KHURD District-  
Aurangabad

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SAROJ KUMAR, Son of Pravesh Singh R/O Village - Senokhap, P.S.- Narari  
Kala Khurd, District - Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mrs.Mukul Kumari, Advocate  
For the Opposite Party/s : Mr.Rajesh 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, total 30.60 litres of  
  
country made liquor was recovered from the bush.

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 rather it was recovered from the bush. The petitioner has 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 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, Aurangabad in connection with Narari Kala Khurd P.S. Case No. 136 of 2022, G.R. No. 778 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)**

Gautam/-

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