

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72668 of 2022

Arising Out of PS. Case No.-698 Year-2022 Thana- WARISLIGANJ District- Nawada

Sugga Sao, Son of Kishori Sao, R/o- Rasanpur, P.S.- Warisaliganj, District- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP.

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.

The petitioner is apprehending his arrest in connection with Warisaliganj P. S. Case No. 698 of 2022 registered for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, the police, on a secret information that some persons are engaged in manufacturing and selling the illicit liquor in village of Rasanpur, Musahari, they raided the place of occurrence. On seeing the police, 8-10 miscreants fled away. On search, 100 litres country made liquor



was recovered and 200 litres mixed Ghole of *mahua mittha* was destroyed at the place of occurrence.

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 in para 3 of the bail petition. Nothing has been recovered from the possession of the petitioner. The name of the petitioner has transpired on the disclosure of the local Choukidar. The name of the petitioner has been implicated in this case on mere suspicion. 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-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Court concerned, Nawada in connection with Warisaliganj P. S. Case No. 698 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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