

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74195 of 2023

Arising Out of PS. Case No.-1573 Year-2017 Thana- SASARAM MUFFSIL District- Rohtas

Sharda Yadav Son Of Krishna Yadav Resident Of Village - Dahiyar, P.S. -
Sasaram (MUFFASIL), District - Rohtas At Sasaram

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Babu Nandan Prasad

For the Opposite Party/s : Mr.Narsingh Tanti

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 30-11-2023 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.

2. Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

3. The Petitioner is apprehending his arrest in
connection with Sasaram Muffasil P.S. Case No. 1573 of 2017
dated 29.10.17 for the offences punishable u/s 30(a), 34 and 38
of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 250 litres of illicit
liquor was recovered from the bamboo bush near the *kaw* river.

5. Learned counsel for the petitioner has submitted
that the petitioner has falsely been implicated in this case. The



petitioner is accused in one more criminal as stated at para 3 of the bail petition. No incriminating article has been recovered from the conscious possession of the petitioner, hence no case is made out. 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.

6. 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.

7. 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 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,
Rohtas at Sasaram in connection with Sasaram Muffasil P.S.
Case No. 1573 of 2017, subject to conditions as laid down under
section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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