

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73548 of 2023

Arising Out of PS. Case No.-679 Year-2023 Thana- HAJIPUR SADAR District- Vaishali

ANIL PASWAN son of Jagdhar Paswan Village- Ismailpur Ps- Hajipur Sadar
Dist- Vaishali

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Singh
For the Opposite Party/s : Mr.Ramesh Chandra

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

ORAL ORDER

2 29-11-2023 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 Hajipur P.S Case No. 679 of 2023 dated 02.09.2023 registered for the offence punishable u/s 30(a) of the Indian Penal Code.

4. As per the prosecution case, total 20 litres of country made *chulai* liquor was recovered from the home of the petitioner.

5. Learned counsel for the petitioner has submitted



that the petitioner has falsely been implicated in this case. It is further submitted that the petitioner lives in joint family. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. Learned counsel has further submitted that 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. It is further submitted that recovery was made from conscious possession of the petitioner.

7. Considering the aforesaid facts and circumstances of the case and the prayer of anticipatory bail of the petitioner is disposed of with direction to the petitioner to surrender



before the court below concerned within six weeks from today and pray for regular bail and the learned Court below shall consider the prayer for regular bail of the petitioner on the same day without being prejudiced by this order.

(Chandra Prakash Singh, J)

Nilmani/-

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