

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72877 of 2022

Arising Out of PS. Case No.-52 Year-2022 Thana- SUPAUL District- Supaul

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Sudeep Kamat @ Sudeep Kumar, Son of Buchchi Kamat, R/V-
Lakshaminiya, Ward No. 12, P.S- Triveniganj, Dist- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Prafull Chandra Thakur, Advocate

For the Opposite Party/s : Mr.Ramesh Chandra, 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
A.P.P. 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 9.520 litres illicit
liquor was recovered from the bush(*Jhari*) near the house of the
petitioner and 20 plastic pouch was recovered from the *dicky* of
the motorcycle which was parked at the door of the house of the
petitioner.



Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The said recovery was made from the bush(*jhari*) which is not covered place and the *dicky* of the motorcycle of the petitioner was opened at the time of recovery of the said liquor. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no criminal antecedent as stated at 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, Supaul in connection with Supaul P.S. Case No. 52 of 2022, subject to conditions as laid down under Section 438 (2) of the Code of Criminal Procedure and also the following condition :-

1. The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the prosecution will be at liberty to move for cancellation of his bail bond.

This application stands allowed.

(Chandra Prakash Singh, J)

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