

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72638 of 2022

Arising Out of PS. Case No.-134 Year-2022 Thana- RUDRAPUR District- Madhubani

Ashok Jha @ Ashok Kumar Jha Son Of Narayan Jha R/O Vill.- Mahrail, P.S.-
Rudrapur, Distt.- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramchandra Jha Raman, Advocate

For the Opposite Party/s : Mr.Surendra Prasad Singh, A.P.P

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

ORAL ORDER

3 25-02-2023 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 a case registered for the offences punishable u/s 272 and 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, 90 liters of illicit liquor was recovered from the courtyard of the co-accused.

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. The petitioner is father of the co-accused person and he is physically disable with 40%. The petitioner is made accused only because he is father of the co-accused Pankaj Kumar Jha. The petitioner has no knowledge of the alleged recovery. 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, 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,
Madhubani in connection with Rudrapur P.S. Case No. 134 of
2022, subject to conditions as laid down under section 438(2) of
the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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