

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73698 of 2022

Arising Out of PS. Case No.-545 Year-2021 Thana- NAWADA District- Nawada

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KUNDAN KUMAR Son of Rajaram Singh R/V- Deora, P.S- Meskour, Dist-
Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sheo Kumar Prasad

For the Opposite Party/s : Mr.Bishweshwar Ram

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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

Additional Public Prosecutor for the State through video-

conferencing.

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, 12 bottles of 375ml of

Imperial Blue whiskey and three bottles of 375ml of sterling

reserve whiskey were recovered in a plastic bag from *parti* land

near cattle-shed and from the motorcycle. On inquiry, Pappu



Sao told that the said liquor was given to him by Sani sao, Dilip Sao, Sachin Kumar, Badal Kumar, Kundan Kumar, Sonu Kumar, Niraj Kumar. Those persons also sell wine to Karu Singh, Rajesh Chaudhary, Pappu Kumar and on the search of the house of the Karu Singh 15.6 litres of country-made liquor was recovered. The seized motorcycle was used for the purpose of selling wine.

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 case which is not related to Excise Act as stated at para 3 of the bail petition. Nothing has been recovered from the possession of the petitioner. The name of the petitioner has been disclosed by the co-accused Pappu Sao. 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 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, Nawada in connection with Nawada Town P.S. Case No. 545 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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