

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.685 of 2023

Arising Out of PS. Case No.-338 Year-2022 Thana- NOKHA District- Rohtas

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BABLU CHAUDHARY S/O KAMESHWAR CHAUDHARY @
KAMESHWAR SINGH Resident of village- Lalganj, P.S.- Nokha District-
Rohtas.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sri Krishna Ranjan

For the Opposite Party/s : Mr.Akbar Ali

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

ORAL ORDER

2 10-02-2023 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

Special Public Prosecutor for the State.

The Petitioner is apprehending his arrest in a case

registered for the offences punishable u/s 30(a), 37 Bihar

Prohibition and Excise Act.

As per the prosecution case, total 4 litres country

made illicit liquor was recovered from the house of the

petitioner which is under construction.

Learned counsel for the petitioner has submitted that

the petitioner has falsely been implicated in this case. Nothing



has been recovered from the conscious possession of the petitioner. No case is made out against the petitioner. The said house is situated in open place and the construction work of the said house was going on. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. 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, 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



learned Court concerned, Rohtas in connection with Nokha P.S.
Case No. 338 of 2022, subject to conditions as laid down under
Section 438(2) of the Code of Criminal Procedure with a
condition:-

1. The court below shall verify the criminal
antecedent of the petitioner and at any stage, if it is found that
the petitioner has concealed his criminal antecedent, the court
below shall take step for cancellation of bail bond of the
petitioner. However, the acceptance of bail bonds in terms of the
above-mentioned order shall not be delayed for purpose of or in
the name of verification.

This application stands allowed.

(Chandra Prakash Singh, J)

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