

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76367 of 2023

Arising Out of PS. Case No.-359 Year-2023 Thana- KHARHAGPUR District- Munger

Sanjay Yadav S/O Faudari Yadav R/O Village- Miadih (Bohira), P.S- Havely
Kharagpur, Distt.- Munger.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Patel, Advocate

For the Opposite Party/s : Mr. Abhay Kumar Roy, A.P.P.

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

ORAL ORDER

2 14-12-2023 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 Kharagpur P.S Case No. 359 of 2023 dated

13.06.2023 for the offences punishable u/ss 30(a) and 30(c)

of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 30 litres of

illicit liquor and 1200 kg of fermented *Mahua* along with

two Bhatties and utensils used for manufacturing the liquor



were recovered from the Miadih forest

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that from perusal of the F.I.R. it appears that the petitioner was not apprehended on the spot. Learned counsel has further submitted that local cattle grazers disclosed the name of the petitioner. The petitioner has no criminal antecedent as stated at para 3 of the bail petition. 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.

7. 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, Munger in connection with Kharagpur P.S Case No. 359 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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