

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75574 of 2023

Arising Out of PS. Case No.-624 Year-2022 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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PANDAV KUMAR Son of Jamhar Yadav @ Javahar Yadav @ Jamahar Yadav
R/o vill - Mastifathepur, ward no. 9, P.S. - Muffasil (Lakho O.P), Distt. -
Begusarai

... .. Petitioner/s

Versus

THE STATE OF BIHAR PATNA

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar Yadav, Advocate
For the Opposite Party/s : Mr.Nand Kishore Prasad, APP

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

ORAL ORDER

2 11-12-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Muffasil (Lakho O.P.) P.S. Case No. 624 of 2022 dated 06.12.2022 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, 2 litres of country made liquor was recovered from a *Litti* Shop of the petitioner.

4. 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 at para 3 of the bail petition. Nothing has been recovered from the possession of



the petitioner rather the recovery has been made from an open place, hence no case is made out against the petitioner. The said shop does not belong to 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.

5. 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.

6. 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,



Begusarai in connection with Begusarai Muffasil (Lakho O.P.)
P.S. Case No. 624 of 2022, subject to conditions as laid down
under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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