

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74283 of 2022**

Arising Out of PS. Case No.-388 Year-2022 Thana- SASARAM NAGAR District- Rohtas

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SANJAY KUMAR GOND @ SANJAY GOND SON OF NATHUNI GOND
R/O VILLAGE- KADIRGANJ, P.S.- DARGAON, DISTRICT- ROHTAS AT
SASARAM

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajani Kant Pandey

For the Opposite Party/s : Mr.Rajesh Kumar APP

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

ORAL ORDER

2 03-02-2023 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) of

Bihar Prohibition and Excise Act.

As per the prosecution case, one person on seeing the

police started fleeing away but he was arrested who disclosed

his name as Krishna Mahto and also disclosed the name of his

associate who fled away as Sanjay Gond. 75 litre country made

liquor was recovered from the motorcycle.



Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Name of the petitioner has transpired in the confessional statement of the co-accused. Nothing has been recovered from the conscious possession of the petitioner. The petitioner is accused in one other criminal case as stated in para 3 of the bail petition. Learned Counsel has relied on the judgement 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 Sasaram Nagar P.S. Case No. 388 of 2022, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This application stands allowed.

(Chandra Prakash Singh, J)

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