

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73407 of 2022

Arising Out of PS. Case No.-123 Year-2022 Thana- AGION (GARHANI) District- Bhojpur

Khirmohan Singh S/O Sudarshan Jatan Singh @ Sudarshan Singh R/O
Village- Bishambhara, P.S.- Agiaon (G), Garahani, Distt- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar Singh
For the Opposite Party/s : Mr.Madhuri Lata

**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, total 70 litres of Mahua
liquor was recovered from the village Bishambhara, *Asamaan*
(*badha*) and on seeing the police eight persons fled away from
there and 34,000 litres Mahua was also destroyed.



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. The said place of occurrence does not belong to the petitioner. Hence, 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, Bhojpur, Ara in connection with Agiaon (Garahani) P.S. Case No. 123 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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