

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74656 of 2022

Arising Out of PS. Case No.-369 Year-2021 Thana- MAHUA District- Vaishali

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Sintu Kumar S/O Shambhu Nath Singh Resident Of Village- Madhopur
Nijhma, P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bela Singh, Advocate

For the Opposite Party/s : Mr. Arbind Kumar Pandey, App, 82

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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

Additional Public Prosecutor for the State through virtual court

proceeding.

The Petitioner is apprehending his arrest in a case

registered for the offences punishable u/s 30(a) 32(ii), 34(ii),

38(ii), 41(i) of the Bihar Prohibition and Excise Act.

As per the prosecution case, total 2023.560 litres of

foreign liquor was recovered from a Pickup vehicle.

Learned counsel for the petitioner has submitted that

the petitioner has falsely been implicated in this case. The co-



accused person has already granted bail by the Co-ordinate Bench of this Court *vide* order dated 10.08.2022 passed in Criminal Miscellaneous No. 25361 of 2022. The petitioner has no concern with the said vehicle. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that 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 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 material available on record, 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, Vaishali at Hajipur in connection with Mahua P.S. Case No. 369 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

The application stands allowed.

(Chandra Prakash Singh, J)

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