

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76646 of 2023

Arising Out of PS. Case No.-271 Year-2023 Thana- SARAI RANJAN District- Samastipur

Pintu Kumar Singh @ Pintu Singh Son Of Devendra Prasad Singh @ Mishri Lal Singh Resident Of Village- Fatehpur Wala, Ps- Musrigharari, Distt- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Jitendra Narain Sinha

For the Opposite Party/s : Mr.Pushpa Sinha.1

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 18-12-2023 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 Sarairanjan P.S. Case No. 271 of 2023 dated 25.09.2023 for the offences punishable u/s 30(a), 41(1) and 41(2) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 1417.5 litres of illicit Indian made foreign liquor has been recovered from a pick-up van and a truck. Three accused persons were apprehended on the spot, who disclosed the name of the



petitioner.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is accused in nine other criminal cases 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, Samastipur in connection with Sarairanjan P.S. Case No. 271 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further conditions:-

(i). The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

(ii). If the petitioner is found involved in similar nature of offence in future, the prosecution will be at liberty to move for cancellation of his bail bonds.

(Chandra Prakash Singh, J)

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