

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 74014 of 2022

Arising Out of PS. Case No.-652 Year-2022 Thana- MAHUA District- Vaishali

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Pankaj Kumar @ Pankaj Kumar Singh S/O Satyanarayan Singh Resident Of
Village- Narangi Sarsikan, 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. Kunal Tiwary, Advocate

For the Opposite Party/s : Mr. Shyam Bihari Singh, APP

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**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

Special 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 272, 273/34 of the

Indian Penal Code and 30(a) of the Bihar Prohibition and Excise

Act.

As per the prosecution case, the petitioner and the co-

accused persons used to sell and purchase country made liquor

near Jamaniya bridge. On seeing the police party, some people



started fleeing away but one person was apprehended who disclosed the name of the co-accused Lal Babu Paswan and he also disclosed the name of the other accused persons. Total 275 litres country made liquor and one motorcycle were recovered from the spot.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing has been recovered from the possession of the petitioner. The name of the petitioner was disclosed by the co-accused Lal Babu Paswan. 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. 652 of 2022, 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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