

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74286 of 2022

Arising Out of PS. Case No.-364 Year-2022 Thana- BISFI District- Madhubani

LAL BABU MANDAL Son of Late Mukti Mandal Resident of Village -
Madhiya, P.S.- Bisfi, District - Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Soban Asghar, Advocate.

For the Opposite Party/s : Ms. Sangeeta Sharma, APP.

**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 video
conferencing.

The petitioner is apprehending his arrest in connection
with Bisfi P. S. Case No. 364 of 2022 registered for the offences
punishable under Sections 272 & 273 of the Indian Penal Code
and Section 30(a) of the Bihar Prohibition and Excise Act.

As per the prosecution case, on an information, the
police apprehended one Surya Narayan Mandal in a drunken
condition. On enquiry, Surya Narayan Mandal disclosed that he



purchased the liquor from the petitioner. When police reached the place of occurrence, they saw a person fleeing away from the place of occurrence after throwing a plastic bag beside the road. Later on, one Chaukidar identified the person as the petitioner. On search, total 1.20 litres illicit liquor was recovered from the said plastic bag.

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. In fact, no such occurrence as alleged has ever taken place. The name of the petitioner has been dragged in this case on the instance of his enemies. The petitioner has one more criminal case 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 APP 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, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Court concerned, Madhubani in connection with Bisfi P. S. Case No. 364 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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