

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77358 of 2023

Arising Out of PS. Case No.-214 Year-2021 Thana- BELA District- Sitamarhi

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Anil Kumar Son Of Ram Autar Mahto Resident Of Village - Mushaharniya
Rajwara, P.S. - Sonbarsa, District – Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 20-12-2023 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 Bela P.S Case No. 214 of 2021 dated
18.11.2021 for the offences punishable u/s 30(a) of the
Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 207 litres of
illicit liquor was recovered from the bank of the river and
apprehended person disclosed the name of the petitioner,



who managed to escape.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that the apprehended co-accused namely, Sudhir Kumar disclosed the name of the petitioner. The petitioner has one criminal antecedent 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. The co-accused person has already granted anticipatory bail by the Coordinate Bench of this court vide order dated 02.09.2022 passed in Cr. Misc. No. 30287 of 2022. 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, Sitamarhi in connection with Bela P.S Case No. 214 of 2021, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

Nilmani/-

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