

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.936 of 2023

Arising Out of PS. Case No.-13 Year-2022 Thana- BANDEYA District- Aurangabad

SANTOSH KUMAR Son of Baishakhi Bind R/v- Jhikatiya, P.S.- Bandeya,
District- Aurangabad

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Krishna Prasad Singh, Sr. Adv
	:	Mr.Mithilesh Kumar Singh, Adv
For the Opposite Party/s	:	Mr.Asha Kumari APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 10-02-2023 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 Special Public Prosecutor for the State.

The Petitioner is apprehending his arrest in a case registered for the offences punishable u/s 30(a) of Bihar Prohibition and Excise Act.

As per the prosecution case, 30 litres of *mahua* country made illicit liquor was recovered from the uncultivated land near Sheesam tree.

Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. Nothing



has been recovered from the conscious possession of the petitioner. No case is made out against the petitioner. Learned counsel further submitted that said land does not belong to the petitioner. He has no concerned with the said recovery. The petitioner is accused in one more criminal case which is related to Excise Act as stated in para 3 of the bail petition. Learned Counsel has relied on the judgement 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.

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 nature of allegation, 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 learned Court concerned, Aurangabad in connection with Bandeya P.S. Case No. 13 of 2022, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure with a condition:-

1. The court below shall verify the criminal antecedent of the petitioner and at any stage, if it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands allowed.

(Chandra Prakash Singh, J)

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