

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74753 of 2022

Arising Out of PS. Case No.-830 Year-2022 Thana- SITAMARHI District- Sitamarhi

GAUTAM KUMAR S/o Sukan Prasad @ Sukan Sah R/o Village- Konaila,
P.S.- Ujarpur, Distt- Samastipur at present resident of village- Raghunathpur,
Ward no. 16, Mehsaul, P.S. and Distt- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr. Umesh Lal Verma, 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 virtual court
proceeding.

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

As per the prosecution case, total 108.72 litres of
illicit liquor and a motorcycle which was used for home delivery
of liquor, were recovered from the house of the co-accused
person Sukan Prasad.



Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is the son of the co-accused Sukan prasad. Learned counsel has further submitted that the petitioner is neither the owner nor the driver of the said motorcycle. The petitioner has no criminal antecedent as stated at 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, Sitamarhi in connection with Sitamarhi P.S. Case No. 830 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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