

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1255 of 2023**

Arising Out of PS. Case No.-38 Year-2021 Thana- SAHIYARA District- Sitamarhi

VIKKI SAHNI @ VIKKI KUMAR @ VIKKY KUMAR SON OF LATE
RAMPRATAP SAHNI @ RAMPRATAP MUKHIYA R/O VILLAGE-
HANUMAN NAGAR BINTOLI, P.S.- SAHIYARA, DISTRICT-
SITAMARHI

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Dr. Kumar Uday Pratap, 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 the Bihar

Prohibition and Excise Act.

As per the prosecution case, total 288 litres of illicit

Nepali liquor was recovered on the road side situated near a

bridge, Mangal Asthan. The co-accused Rambabu Mandal

disclosed the name of the petitioner.



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. The name of the petitioner has transpired in this case on the basis of the disclosure of the co-accused Rambabu Mandal. 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 Sahiyara P.S. Case No. 38 of 2021, 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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