

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1229 of 2023

Arising Out of PS. Case No.-61 Year-2021 Thana- KALYANPUR District- Samastipur

SONU KUMAR @ SONU SAHNI Son of Fulchandra Sahni @ Fulchan
Sahni R/V- Mirzapur, P.S- Kalyanpur Dist- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Manoj Kumar, 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
Additional Public Prosecutor for the State.

The petitioner is apprehending his arrest in connection
with Kalyanpur P. S. Case No. 61 of 2021 registered for the
offences punishable under Sections 30(a), 47 and 41 (i)(ii) of the
Bihar Prohibition and Excise Act.

As per the prosecution case, total 72 litres foreign
liquor was recovered from the toilet of the co-accused Arvind
Sah.

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 petitioner has no concern with the alleged recovery. The seizure list itself shows that the alleged recovery was made from the village of the petitioner. The co-accused person has already been granted bail by co-ordinate Bench of this Hon'ble Court vide order dated 07.12.2021 passed in Cr. Misc. No. 37597 of 2021. The petitioner has got no criminal antecedent 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, Samastipur in connection with Kalyanpur P. S. Case No. 61 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)

shakir/-

U		T	
---	--	---	--

