

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1214 of 2023

Arising Out of PS. Case No.-652 Year-2022 Thana- MAHUA District- Vaishali

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Dharmendra Singh @ Dharmendra Kumar S/O Shatrudhan Singh Resident of
village- Narangi Sarsikan, P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kunal Tiwary, Advocate.

For the Opposite Party/s : Ms. Sharda Kumari, APP.

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**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 Mahua P. S. Case No. 652 of 2022 registered for the

offences punishable under Sections 272 and 273 read with

Section 34 of the Indian Penal Code and Section 30(a) of the

Bihar Prohibition and Excise Act.

As per the prosecution case, total 275 litres of

country-made liquor and a motorcycle were recovered from the

bush near the bridge.



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 other co-accused person has already been granted bail by this Court vide order dated 03.02.2023 passed in Cr. Misc. No. 75339 of 2022. 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, Vaishali at Hajipur in connection with Mahua P. S. Case No. 652 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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