

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42182 of 2024

Arising Out of PS. Case No.-2 Year-2024 Thana- SAKATPUR District- Darbhanga

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RAM SEWAK PASWAN @ SEWAK PASWAN SON OF LATE KARI
PASWAN VILLAGE- BAIKA, P.S.- SAKATPUR, DISTT.- DARBHANGA
(BIHAR)

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vinay Kumar Mishra
For the Opposite Party/s : Mr.Nagendra Prasad

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 06-09-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in
connection with Sakatpur P.S. Case No. 02 of 2024 dated
08.01.2024 registered for the offences punishable u/s 30(a) of the
Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 495 litres of illicit
Nepali liquor was recovered from the Orchard.

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. The petitioner has six criminal antecedent as stated in
para 3 of the bail petition. The name of the petitioner was
disclosed by local villagers due to previous enmity. The



petitioner has no concern with the alleged recovery rather the recovery has been made from an open place that is accessible to anyone. Nothing has been recovered from the conscious possession of the petitioner, hence no case is made out. 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 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. Similarly situated co-accused has already been granted anticipatory bail by this court vide order dated 15.04.2024 passed in Cr. Misc No. 25506 of 2024.

5. 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.

6. Considering the aforesaid facts and circumstances of the case as well as the material available on the record, 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-bond of Rs. 20,000/- (Rupees Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned court concerned, Darbhanga in connection with Sakatpur P.S. Case No. 02 of 2024, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure, with further condition/s-:

(i). The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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