

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49782 of 2024

Arising Out of PS. Case No.-646 Year-2023 Thana- SAKRA District- Muzaffarpur

Sanjay Kumar @ Palta S/O Vaidnath Saah R/O Village- Nayagaon, P.S-
Muishahari, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Adv.
For the Opposite Party/s : Mr. Pronoti Singh, APP

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

ORAL ORDER

2 20-09-2024 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 Sakra P.S. Case No. 646 of 2023 dated 05.12.2023 registered for the offences punishable u/ss 30(a), 32(1), 32(2), 36 and 41(1) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 587.52 litres of illicit foreign liquor was recovered from the pick-up van.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has seven criminal antecedents as stated in para 3 of the bail petition. No incriminating article has been recovered



from the conscious possession of the petitioner, hence no case is made out. The petitioner has no concern with the alleged recovery. The apprehended co-accused person disclosed the name of 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* 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 F.I.R., no offence under the said provision is made out.

5. Learned A.P.P. for the State has vehemently opposed the anticipatory bail petition 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 nature of allegation against the petitioner, 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) with two sureties of the like amount each to



the satisfaction of the learned court concerned, Muzaffarpur in connection with Sakara P.S. Case No. 646 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition:-

1. 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 prosecution will be at liberty to move for cancellation of his bail bond.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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