

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72847 of 2024**

Arising Out of PS. Case No.-98 Year-2024 Thana- KURSAILA District- Katihar

Sonu Kumar Son of Rajendra Sah @ Rajendra Prasad Sah Resident of
village- Balthi Maheshpur, P.S.- Kursela, District- Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Adv

For the Opposite Party/s : Md. Nazir Ansari, APP

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

ORAL ORDER

2 11-12-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in
connection with Kursela P.S. Case No. 98 of 2024 dated
06.06.2024 registered for the offence/s punishable u/s 30(a) of
the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 384 litres of illicit
foreign liquor was recovered from the Baswari (Bamboo
Orchard).

4. Learned counsel for the petitioner has submitted
that the petitioner is innocent and has falsely been implicated in
this case. The name of the petitioner was disclosed by the
apprehended co-accused persons, namely, *Niranjana Kumar and*



Vedanand Mandal. The petitioner has no concern with the alleged recovery. The petitioner has clean criminal antecedent as stated in para 3 of the bail petition. Similar situated co-accused has already been granted regular bail vide order dated 16.07.2024 passed in Cr. Misc. No. 50775 of 2024. No incriminating article 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.

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 nature of allegation levelled 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 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, Katihar in connection with Kursela P.S. Case No. 98 of 2024 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. This application stands allowed.

(Chandra Prakash Singh, J)

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