

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77639 of 2023

Arising Out of PS. Case No.-179 Year-2022 Thana- SONEPUR District- Saran

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NOKHI RAI @ NOKI RAI @ NAGENDRA RAI Son of Amirchand Rai R/o
vill - Babukhani, P.S. - Sonapur, Distt. - Saran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Peeyush Raj, Adv.

For the Opposite Party/s : Mr.Sanjay Kumar, APP

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

ORAL ORDER

2 04-01-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The Petitioner is apprehending his arrest in connection with Sonapur P.S. Case No. 179 of 2022 dated 13.03.2022 for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 20 litres of illicit country made liquor was recovered from diara situated near the bank of the Ganga river.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has five criminal antecedent and he is on bail in all the cases as stated in para 3 of the bail petition. Nothing has been



recovered from the possession of the petitioner and the petitioner has no concern with the alleged recovery, hence no case is made out. The co-accused person has already been granted anticipatory bail by the Coordinate Bench of this court vide order dated 29.04.2023 passed in Cr. Misc. No. 12937 of 2023. 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 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, Saran at Chapra in connection with Sonepur P.S. Case No. 179 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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