

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78178 of 2023

Arising Out of PS. Case No.-127 Year-2022 Thana- DARPA District- East Champaran

Pachu Rai @ Pacho Kumar Son Of Nand Rai @ Nandlal Ray R/O Of Village-
Rampur, P.S.- Darpra, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shailesh Kumar Yadav

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala

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

ORAL ORDER

2 02-01-2024 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.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

3. The Petitioner is apprehending his arrest in connection with Darpa P.S. Case No. 127 of 2022 dated 13.10.2022 for the offences punishable under Sections 272 and 273 of the I.P.C and section 30(a) of the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 12 litres of illicit liquor was recovered from a plastic sack which was thrown by the petitioner.



5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner is accused in one more criminal case as stated at 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. It is further submitted that the petitioner was not present at the spot. 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.

6. 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.

7. 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, East Champaran at Motihari in connection with Darpa P.S. Case No. 127 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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