

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79883 of 2023**

Arising Out of PS. Case No.-427 Year-2023 Thana- MADANPUR District- Aurangabad

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MANOJ SINGH @ MANOJ KUMAR SINGH S/O KRISHNA SINGH @
KRISHNA KUMAR SINGH VILLAGE ISHAPUR P S MADANPUR
DISTRICT AURANGABAD

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Bhaskar Shankar, Advocate

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

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

ORAL ORDER

2 08-01-2024 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 a case in

connection with Madanpur P.S. Case No. 427 of 2023 dated

28.09.2023 for the offence/s punishable u/s 30(a), 34 and 36 of

the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 140 litres of illicit

liquor was recovered from bush.

5. Learned counsel for the petitioner has submitted

that the petitioner has falsely been implicated in this case. No



incriminating material has been recovered from the conscious possession of the petitioner. The recovery was made from an open place that is accessible to anyone. The petitioner has no concern with the alleged recovery. The name of the petitioner has sprung up only on mere suspicion. Similarly situated co-accused has been granted anticipatory bail by the Co-ordinate Bench of this Court vide order dated 08.12.2023 passed in Cr. Misc. No. 78126 of 2023. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. Learned counsel has submitted that no case is made out against 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 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 material available on record, 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, Aurangabad in connection with Madanpur P.S. Case No. 427 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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