

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.84771 of 2023**

Arising Out of PS. Case No.-67 Year-2023 Thana- PANDARAK District- Patna

Santosh Mahto, aged about 33 years, male, Son of Suraj Mahto R/o vill -  
Gowasha Shekhpura (Dhanuk Toli), P.S. - Pandarak, Dist. - Patna

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Bhim Sen Prasad, Advocate.

For the Opposite Party/s : Mr. Gauri Shankar Gupta, A.P.P.

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

ORAL ORDER

2      23-01-2024              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 Pandarak P.S Case No. 67 of 2023 dated  
  
20.04.2023 for the offences punishable u/s 30(a) of the  
  
Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 8 litres of  
  
illicit liquor was recovered from the possession of the co-  
  
accused person who disclosed the name of the petitioner.



5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has no criminal antecedent 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. 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, Barh, Patna in connection with Pandarak P.S Case No. 67 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

**(Chandra Prakash Singh, J)**

Nilmani/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

