

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.81556 of 2023**

Arising Out of PS. Case No.-420 Year-2023 Thana- PALIGANJ District- Patna

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LUV SAW @ LAVKUSH KUMAR@ LUVKUSH SAW S/O MADAN SAW  
VILLAGE- ANKURI, PS. PALIGANJ, DIST. PATNA.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Shadab Akhter, Adv.

For the Opposite Party/s : Mr.Khurshid Anwar, APP

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

ORAL ORDER

2      12-01-2024                      Heard learned counsel for the petitioner and learned  
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Paliganj P.S. Case No. 420 of 2023 (Special Case No. 2362 of 2023) dated 31.07.2023 for the offences punishable u/ss 30(a) and 37 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 5 litres of illicit country made liquor was recovered from the co-accused Rampujan Das. 10 litres of illicit country made liquor was also recovered behind the house of the petitioner and the co-accused Ranjeet Saw and the other 10 litres of illicit country made liquor was recovered from the parti land in front of the house of the



co-accused Ghuman Saw.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has four criminal antecedents as stated in para 3 of the bail petition. The name of the petitioner has surfaced in this case merely on suspicion. Learned counsel has further submitted that the petitioner has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from an open place which is accessible to anyone, 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 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, Danapur, Patna in connection with Paliganj (Patna) P.S. Case No. 420 of 2023 (Special Case No. 2362 of 2023), 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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