

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.85088 of 2023**

Arising Out of PS. Case No.-571 Year-2022 Thana- PHULWARISHARIF District- Patna

MD. SAJID ALI Son of Md. Kurban Ali R/o vill - Malkana, Masaurhi, P.S. -  
Masaurhi, Distt. - Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Kumar Manglam

For the Opposite Party/s : Mr.Ramchandra Sahni

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

ORAL ORDER

2      24-01-2024                      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 Phulwarisharif (Janipur) P.S. Case No. 571 of  
2022 dated 26.05.2022 for the offences punishable u/s 30(a) of  
the Bihar Prohibition and Excise Act.

4. As per the prosecution case, total 60 litres of illicit  
liquor was recovered from the tempo, which was being driven  
by the co-accused Md. Sonu Khan.

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. The petitioner is the owner of the said vehicle but the said vehicle was not being driven by the petitioner at the time of the alleged occurrence. 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, Patna in connection with Phulwarisharif (Janipur) P.S. Case No. 571 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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