**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**CRIMINAL MISCELLANEOUS No.86401 of 2023**

Arising Out of PS. Case No.-111 Year-2023 Thana- ANGARGHAT District- Samastipur

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Lal Babu Sah, aged about 36 years (male), Son of Maheshwar Sah, Resident of Village - Supaul, Police Station - Angarghat, District - Samastipur

... ... Petitioner/s

Versus

The State of Bihar.

... ... Opposite Party/s

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**Appearance :**
For the Petitioner/s : Mr. Mahendra Pratap, Advocate.
For the Opposite Party/s : Mr. Shaheen Begum, A.P.P.

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

ORAL ORDER

2 30-01-2024 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 Angarghat P.S Case No. 111 of 2023 for the offences punishable u/ss 272, 273 of the Indian Penal Code and 30(a) of the Bihar Prohibition and Excise Act.

**4.** As per the prosecution case, total 261 litres of illicit liquor was recovered from the semi constructed house of the co-accused, Ram Vilash Ray.

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**5.** Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is further submitted that the apprehended person disclosed the name of the petitioner. 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

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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, Samastipur in connection with Angarghat P.S Case No. 111 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

**(Chandra Prakash Singh, J)**

Nilmani/-

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