

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2313 of 2024

Arising Out of PS. Case No.-426 Year-2023 Thana- KISHANGANJ District- Kishanganj

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SAMEER KUMAR SAHA @ SAMEER SAHA @ LALU SAHA @ LALU
SON OF LATE RAM CHANDRA SAHA Resident of Village - Rollbag
Kishanganj Bazar, Ward No.30, P.S.- Kishanganj, District- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Raj Kumar

For the Opposite Party/s : Mrs.Veena Kumari Jaiswal

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

ORAL ORDER

2 02-02-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Special Case No. 496 of 2023, arising out of Kishanganj P.S. Case No. 426 of 2023, dated 31.10.2023 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. As per the prosecution case, total 41.400 litres of illicit desi liquor has been recovered from the bush.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. Nothing has been recovered from the



conscious possession of the petitioner. The recovery was made from the open place accessible to anyone, hence 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 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 APP 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, Kishanganj in connection with Special Case No. 496



of 2023, arising out of Kishanganj P.S. Case No. 426 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)

Ranjeet/-

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