

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2231 of 2020

Arising Out of PS. Case No.-155 Year-2019 Thana- KHANPURA District- Samastipur

SANTOSH KUMAR YADAV Son of Late Dunilal Yadav Resident of Village
- Sripur Gahar, P.S.- Khanpura, Distt - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhirendra Kumar, Adv.

For the Opposite Party/s : Ms.Indu Kumari Srivastava, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 16-01-2020 Heard learned counsel for the petitioner and the learned
APP for State.

Petitioner apprehends arrest in connection with **Khanpur**
P. S. Case no. 155 of 2019 instituted for the offence under
Section(s) 272 and 273 of the Indian Penal Code and Section
30(a) of the Bihar Prohibition and Excise Act, 2016 .

The case of the prosecution is based on recovery of
15.375 liters of Indian Made Foreign Liquor from the North
facing bathroom of the petitioner.

It is submitted by the petitioner's counsel that the house is
occupied by the petitioner along with his agnates. There is a
common bathroom having general access to all the members of
the joint family. There is no basis for attributing the recovery to
the petitioner.



Submission is that false implication cannot be ruled out. Recovery is also not in accordance with procedure prescribed under Section 100 Cr. P.C. It is further submitted that no offence whatsoever can said to be made out under the Bihar Prohibition and Excise Act.

The learned APP for the State has opposed the prayer for anticipatory bail, referring to the provisions contained in Section 76(2) of the Bihar Prohibition and Excise Act.

This Court is conscious of decision of the Full Bench in the case of **Ram Vinay Yadav vs. State of Bihar reported in 2019(2) PLJR 1089**. Having regard to the law laid down in the said judgment and the submissions advanced on behalf of the petitioner, this Court, for the limited purpose of grant of anticipatory bail, is inclined to accept the submissions of counsel for the petitioner.

Considering the aforesaid facts, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner, named above, before the court below, within four (04) weeks from today, he shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the **2nd Additional Sessions Judge cum Special**



Judge (Excise) Act Samastipur, in connection with **Khanpur P. S. Case no. 155 of 2019** subject to the conditions as laid down under Section 438(2) Cr. P.C. subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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