

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2230 of 2020

Arising Out of PS. Case No.-282 Year-2019 Thana- CHANPATIA District- West Champaran

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RAMCHANDRA MAHTO @ RAMCHANDAR MAHTO Son of Jawahir
Mahto Resident of Village - Garabhua Lala Tola, Police Station - Sirisiya
(O.P.), District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar No 7, Adv.

For the Opposite Party/s : Mr.Shailendra Kumar, APP

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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 apprehend his arrest in connection with
Chanpatiya (Sirisiya O.P.) P.S. Case No. 282 of 2019,
instituted for the offence under Section(s) 272 and 273 of the
Indian Penal Code and Sections 30(A), 30(B), 30(C) of the
Bihar Prohibition and Excise Act, 2016.

Having no criminal antecedents, the petitioner is made an
accused in the instant case where the prosecution alleges an
amount of 15 liters country made liquor and 400 liters semi
manufactured country made liquor was recovered from the
petitioner's land.

It is submitted by petitioner's counsel that it is out and out



a false case. Seizure list does not support the prosecution case. There is no compliance with procedure under section 100 Cr.P.C. and that there is no recovery from the petitioner's conscious possession and the recovery was not in his presence. The submission is that, under these circumstances, no case whatsoever can be made out under the Bihar Prohibition and Excise Act on the basis of the allegations as narrated in the F.I.R.

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 and submitted that pre-arrest bail would not be maintainable.

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 **Special Judge, Excise, Bettiah, West Champaran**, in connection with **Chanpatiya (Sirisiya O.P.) P.S. Case No. 282 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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