

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6865 of 2020**

Arising Out of PS. Case No.-118 Year-2015 Thana- GOVERNMENT OFFICIAL COMP.
District- Araria

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Manoj Paswan, S/o Late Jagdev Paswan @ Late Langra Paswan, R/o village-
Kakora, Ward No.- 10, P.S.- Mahalgaon, Distt.- Araria

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh, Advocate
For the Opposite Party/s : Mr.Syed Ehteshamuddin, APP

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

2 18-06-2020 The matter has been listed today for consideration

through video conferencing in view of the nationwide lockdown

on account of COVID-19 pandemic.

The learned counsels are appearing and making
submissions from their residence. The Court Master and
Secretary are also part of this virtual Court proceedings from
their homes, all with the aid of audio visual technology.

Heard learned counsel for the petitioner and the
learned APP for the State.

The petitioner is apprehending his arrest in
connection with C.C. Case No.118 of 2015 corresponding to
Special Case No.527 of 2017 registered for the offence
punishable under Section 47(a) of the Bihar Prohibition and



Excise Act, 2016.

The prosecution case alleges recovery of 35 litres country-made illicit liquor from a bamboo clump situated behind the house of the petitioner concealed under the ground.

The petitioner's counsel submits that the recovery is from behind the house and not within the petitioner's house. Learned counsel further submits that the recovery is from a place having general public access and therefore, by no stretch of imagination, the petitioner can be held liable for recovery in question. The petitioner's false implication cannot be ruled out in the circumstances. It is submitted that there is non-compliance of the mandatory procedure under Section 100 Cr.P.C. and in view of the said facts, no offence is made out under the Bihar Prohibition and Excise Act. It is submitted that the petitioner is also an accused in Jokihat P.S. Case No.306 of 2015 in which he is already on bail.

Learned APP for the State has opposed the prayer for pre-arrest bail on the ground of the same being not maintainable in view of the statutory bar on pre-arrest bail under the Bihar Prohibition and Excise Act.

Considering the rival submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail



laid down by a Full Bench of this Court in the case of ***Ram Vinay Yadav vs. State of Bihar***, reported in ***2019(2) PLJR 1089(FB)***, is inclined to accept the submissions advanced by the petitioner's counsel for the limited purpose of grant of pre-arrest bail. The petitioner's prayer for anticipatory bail is allowed.

Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge cum Special Judge, Araria, in connection with C.C. Case No.118 of 2015 corresponding to Special Case No.527 of 2017, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also 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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