

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8513 of 2020

Arising Out of PS. Case No.-298 Year-2019 Thana- PANCHRUKHI District- Siwan

RAJAN KHAN @ AFZAL IMAM KHAN Son of Irshad Khan Resident of
Village - Mahpur, P.S.- Sarai, O.P., Distt - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Pandey
For the Opposite Party/s : Mr. Bishweshwar Ram

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 02-03-2020 Heard learned counsel for the petitioner and the learned
APP for State.

Petitioner apprehends his arrest in connection with
Pachrukhi (Sarai O.P.) P.S. Case no. 298 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.

Having no criminal antecedents, it is submitted that the
petitioner apprehends his arrest in the instant case based on
recovery of 25 liters 920Ml illicit liquor. Liquor is said to have
been abandoned by the three motorcyclists who have fled
away.

Petitioner's counsel submits that the prosecution case is
false. No recovery has been made from the petitioner and
neither he was apprehended at the place. In the circumstances,



since there is also no seizure from the petitioner, the offence under the Bihar Prohibition and Excise Act cannot be made out.

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.

The learned APP for the State has opposed the prayer for anticipatory bail.

Considering the aforesaid facts, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner before the court below, named above, 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 **Addl. Sessions Judge-II-cum Special Judge**



Excise Siwan, in connection with Pachrukhi (Sarai O.P.) P.S.
Case no. 298 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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