

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8363 of 2020

Arising Out of PS. Case No.-579 Year-2019 Thana- BARH District- Patna

SAROJ RAY S/o Late Deoki Ray Resident of Village- Pachhiyari Tola, P.S.-
Barh, Distt- Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar

For the Opposite Party/s : Mrs. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 29-02-2020 Heard learned Counsel for the petitioner and the learned
APP for the State.

Petitioner apprehend arrest in Barh PS Case No. 579 of
2019 registered under Sections 30(a) of Bihar Prohibition and Excise
Act, 2016.

As per prosecution case 35 litres and 215 litres illicit
liquor are said to have been recovered from two different places.
Petitioner has been implicated since the Chaukidar has disclosed that
he was amongst those running away from the place from where
recovery has been made.

It is submitted by petitioner's counsel that the allegation
itself shows that the petitioner was neither apprehended on the spot
nor there is any recovery from him. Merely because the Chaukidar
has taken his name he is apprehending arrest. The prosecution story
clearly does not make out any case under the Bihar Prohibition and
Excise Act.

Learned APP has opposed the prayer for anticipatory bail
citing the provisions of Section 74 of the Act prescribing bar on pre
arrest bail.



Considering the rival submissions this Court is inclined to accept the submission on behalf of the petitioner. The prayer is allowed.

In the event of arrest or surrender before the court below within four weeks from today, let the petitioners above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Special Judge, Excise, Patna in Barh PS Case No. 579 of 2019 subject to all conditions as laid down in Section 438(2) of the Criminal Procedure Code 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 in the trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

(Madhuresh Prasad, J)

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