

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8467 of 2020

Arising Out of PS. Case No.-57 Year-2019 Thana- KHODAWANDPUR District- Begusarai

Bablu Mahto @ Bablu Kumar Son of Kapil Dev Mahto Resident of Village -
Karaitanr, Samsa, P.S.- Nawkothe, District - Begusarai.

... .. Petitioner

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Shree Niwas Singh

For the Opposite Party/s : Mr.Asha Devi

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

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

Petitioner apprehends arrest in Khodabandpur PS Case No. 57 of 2019 registered under Sections 30(a) of Bihar Prohibition and Excise Act, 2016.

132.84 litres of foreign liquor is allegedly recovered from a bolero vehicle after intercepting the vehicle. Upon disclosure of the petitioner's name made by the driver, he has been implicated in this case.

It is submitted by petitioner's counsel that he was neither present at the place and time of recovery nor any recovery of illicit liquor has been made from him. Further submission is that the petitioner is also not owner of the vehicle in question. Petitioner's implication is without any basis and no offence under the Bihar Prohibition and Excise act is made out against the petitioner.

Learned APP appearing 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 the 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 for grant of anticipatory bail is inclined to accept the submission of Counsel for the petitioner.

Considering the aforesaid submissions as also the facts and circumstances of the case, prayer for anticipatory bail of the petitioner is allowed.

In the event of arrest or surrender before the court below within four weeks from today, let the petitioner 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 Additional Sessions Judge II -cum- Special Judge (Excise) Begusarai in Khodabandpur PS Case No. 57 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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