

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10271 of 2020

Arising Out of PS. Case No.-396 Year-2019 Thana- CHAKIA District- East Champaran

Alok Kumar, Son of Utim Sah, Resident of Village- Laukaha, P.S.- Chakiya,
District- East Champaran at Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Vikram Jeet, Advocate
		Mr. Binay Kumar, Advocate
For the Opposite Party/s :		Mr.Parmanand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 10-06-2020 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 Chakiya P.S. Case No.396 of 2019 registered for the offence punishable under Sections 30(a) and 41 of the Bihar Prohibition and Excise Act, 2018.



202.470 litres of English wine is alleged to have been recovered from the *Bansbari* of co-accused Dharmendra Sah. The said co-accused has been arrested while allegedly fleeing away. He is alleged to have stated that he bought the illicit wine from Golu Singh and the petitioner helped him in carrying on his business.

On such allegations, petitioner's Counsel submits that the petitioner is apprehending his arrest. Neither any recovery has been made from his house nor was he present at the time of the occurrence. There is not even any expert opinion whether the substance seized is illicit liquor or not. The petitioner's implication is without any basis whatsoever and no case under the Bihar Prohibition and Excise Act is made out against the petitioner.

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 PLJR(2)***



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 9th Additional Sessions Judge-Cum-Special Judge, Excise, East Champaran at Motihari, in connection with Chakiya P.S. Case No.396 of 2019, 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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