

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8518 of 2020

Arising Out of PS. Case No.-254 Year-2019 Thana- KASBA District- Purnia

Atish Kumar Bhagat @ Atish Bhagat Son of Amarnath Bhagat Resident of
Village - Garh Banaili, P. S.- Kasba, Distt - Purnea.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Bijendra Kumar Singh
For the Opposite Party/s : Mr. Umeshanand Pandit

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

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

Petitioner apprehend his arrest in connection with
Kasba P. S. Case no. (for brevity, P S) Case No 254 of 2019
instituted for the offence punishable under Section(s) 272 and
273 of the Indian Penal Code and Section 30(a) of Bihar
Prohibition and Excise Act (Amendment) Act, 2018.

4.5 liters of Indian Made Foreign liquor is alleged to
have been recovered leading to the petitioner's implication.

It is alleged that the informant (A. S. I.) had gone to
investigate the illicit trade of liquor upon secret information,
whereafter recovery has been made.

Petitioner's counsel submits that petitioner has no
criminal antecedents. Seizure list *ex facie* discloses recovery of



the liquor from the road in front of petitioner's house. The place was having general public access. In the circumstances, the petitioner's responsibility can by no stretch of imagination be even presumed and no offence whatsoever can be made out under the Bihar Prohibition and Excise Act.

Referring to Section 76 (2) of the Bihar Prohibition & Excise Act, prayer for pre-arrest bail is opposed as being not maintainable. Considering the rival submissions and Full Bench decision of this Court in the case of **Ram Binay Yadav -Versus- State of Bihar, 2019 (2) PLJR 1089**, for the limited purposes of grant of anticipatory bail, this Court is inclined to accept the submissions advanced by the petitioners' counsel.

Considering the aforesaid facts, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner, named above, before the court below, 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 **2nd Additional Sessions Judge-cum- Spl. Judge (Excise) Purnea**, in connection with **Kasba P. S. Case No. 254 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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