

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10450 of 2020

Arising Out of PS. Case No.-90 Year-2019 Thana- JADOPUR District- Gopalganj

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Pappu Kumar @ Pappu Kumar Yadav Son of Ramanand Yadav Resident of
Village - Bikrampur, P.S. - Yadopur (Jadopur), District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vibhakar Kumar, Adv.

For the Opposite Party/s : Mr.Pushpa Sinha.1, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 10-06-2020 The matter has been listed today for consideration
through Video Conferencing.

Heard learned counsel for the petitioner and the learned
APP for State.

Petitioner apprehend his arrest in connection with
Yadopur (Jadopur) P.S. case no. 90 of 2019 instituted for the
offence under Section 30(a) of the Bihar Prohibition and Excise
Act, 2018.

The F.I.R. alleges recovery of 53 liters of wine from a
hut. One person is alleged to have fled away at the time of
recovery. The petitioner has been implicated as being the person
who fled away, but on the subsequent identification by the
Dafadar.



It is submitted that it is a glaring case of false implication. The petitioner has no criminal antecedents. The recovery is not from the petitioner's conscious possession and he has not been arrested at the spot. The false implication of the petitioner is on the basis of identification at night and there is no compliance with the mandatory procedure prescribed for recovery under Section 100 Cr. P.C. In the circumstances, no case, whatsoever, would be made out against the petitioner under the Bihar Prohibition and Excise Act.

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.

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 **2nd Addl. Sessions Judge, Gopalganj -cum Special Judge cum Excise Judge, Gopalganj**, in connection with **Yadopur (Jadopur) P.S. case no. 90 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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