

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8644 of 2020

Arising Out of PS. Case No.-123 Year-2019 Thana- MUSRIGHRARI District- Samastipur

VISHNU KUMAR Son of Nirdhan Mahto Resident of Village - Salempur,
P.S.- Musrigharari, District - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Pradeep Narain Kumar APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2. 04-03-2020 Heard learned counsel for the petitioner and the learned
APP for State.

Petitioner apprehends arrest in connection with
Musarigharari P. S. Case no. 123 of 2019, instituted for the
offence under Section(s) 30(a) of the Bihar Prohibition and
Excise Act, 2016.

15 liters 300 ml wine is alleged to have been recovered
from the house of the petitioner.

It is submitted by the petitioner's counsel that the
prosecution case is false. The recovery was not in his presence
nor has it been made from his possession. The offence, therefore
under the Prohibition and Excise Act could not be maintainable
against the petitioner.

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, 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, Samastipur**, in connection with **Musarigharari P.S. Case no. 123 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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