

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10572 of 2020**

Arising Out of PS. Case No.-284 Year-2019 Thana- DARAUNDA District- Siwan

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AJAY YADAV @ AJAY KUMAR YADAV Son of Rama Yadav Resident of
Vill-Jai Prakash Nagar Sherahi, P.S.-Daraunda, District-Siwan.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Part

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Appearance :

For the Petitioner/s : Mr.Surendra Kishore Thakur, Advocate

For the Opposite Party/s : Mr.Anant Kumar , 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 in view of the Nationwide Lockdown on account of the 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.

Petitioner apprehends arrest in Daraunda PS Case No. 284 of 2019 registered under Section 30(a) and 38 of Bihar Prohibition and Excise Act, 2016.

About 25 litres of Mahua liquor and some small quantity of Indian made foreign liquor is alleged to have been recovered from near the canal. The prosecution alleges that four persons fled away when the police party reached the spot. The petitioner has been implicated as being one amongst the four persons.

Learned Counsel for the petitioner submits that it is a case of false implication. The petitioner, even as per prosecution case, was not arrested from the place from where the recovery was made and no recovery whatsoever is even alleged from the petitioner. The recovery is from the place having general public access. In view



of the facts and circumstances above no case whatsoever would be made out under the provisions of Bihar Prohibition and Excise Act.

Learned APP 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 submissions and the facts, this Court, in view of the parameters for considering pre-arrest bail laid down in the case of ***Ram Vinay Yadav vs. State of Bihar reported in 2019 PLJR (2) 1089 (FB)***, is inclined to accept the submission by the petitioner 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 arrest or surrender before the court below within four weeks from today, 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 2nd Additional Sessions Judge -cum- Special Judge, Excise Act, Siwan in Daraunda PS Case No. 284 of 2019 subject to all conditions as laid down in Section 438(2) of the Criminal Procedure Code as also 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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